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REPORT

OF THE

Departmental Committee on the  
Poisons and Pharmacy Acts.

*Presented by the Lord President of the Council  
to Parliament by Command of His Majesty  
March, 1930.*

LONDON:

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A Committee consisting of :—

E. A. Mitchell Innes, Esq., C.B.E., K.C. (Chairman),  
L. G. Brock, Esq., C.B.,  
Sir Malcolm Delevingne, K.C.B.,  
F. W. Gamble, Esq. (Director, Allen & Hanburys, Ltd.),  
Sir William M. Graham-Harrison, K.C.B.,  
Sir Donald MacAlister, Bt., K.C.B., M.D.,  
E. T. Neathercoat, Esq., C.B.E.,  
Colin Smith, Esq.,  
G. Stubbs, Esq., C.B.E., F.I.C.,  
Sir William H. Willcox, K.C.I.E., C.B., C.M.G., M.D.,  
F.R.C.P.,  
A. E. Young, Esq. (Chairman, Retail Pharmacists' Union),  
M. D. Perrins, Esq. (Home Office), Dr. E. W. Adams,  
O.B.E., M.D. (Ministry of Health), Joint Secretaries to the Committee,

is hereby appointed to consider and report whether any modifications are necessary or desirable in the Poisons and Pharmacy Acts—

(1) in regard to the conditions relating to the sale of poisons ;  
(2) in regard to the procedure for the modification or extension of the Schedule of Poisons to which the Acts apply ;  
LIBRARY (3) in the system of making and enforcing Regulations in  
Coll. wellOMEregard to the keeping, selling and dispensing of poisons ;  
Call pam (4) in regard to the Central Authority for the purposes of  
No. QV32 the Acts ; and  
.BAI (5) in regard to any other matters to which the attention  
of the Committee may be drawn.

(Signed) BALFOUR,

Lord President of the Council.

Dated 17th July, 1926.

On 18th August, 1926, the Lord President of the Council appointed Mr. W. A. C. Goodchild, of the Scottish Office to be a member of the Committee and on 16th December, 1926, Mr. R. N. Duke, D.S.O., M.C., to take the place of Mr. Goodchild, who had been appointed Assistant British Delegate on the Reparations Commission.

The cost of this Inquiry is estimated at £435 10s. 6d., of which £62 represents the estimated cost of printing and publishing this Report.

# Departmental Committee on the Poisons and Pharmacy Acts.

## REPORT.

To the Right Honourable THE LORD PARMOOR, K.C.V.O.,  
Lord President of the Council.

MY LORD,

1. We have the honour to submit the following Report under the terms of reference in your predecessor's Minute of Appointment of the 17th July, 1926.

2. At their first and second meetings the Committee, after careful consideration, recorded their view that their terms of reference—

(i) did not include the consideration of proposals for the inclusion in or exclusion from the "Poisons List" of any specific substance;

(ii) did not permit the extension of their inquiry to matters unconnected with poisons, except in so far as those matters were implied in or were immediately subsidiary to questions connected with poisons.

The principal result of the latter decision was the refusal by the Committee, though invited to do so, to consider the general question of "dispensing" medicine apart from poisons, or to discuss and define "the business of a pharmaceutical chemist or chemist and druggist" in the widest sense of those words.

3. We have had 27 meetings, at 19 of which we took oral evidence. In accordance with the general practice of Departmental Committees, our meetings were not open to the public. We conducted our inquiry by requesting such persons, bodies or associations as we thought would be able to assist us in our inquiry, together with persons offering themselves as witnesses, to submit memoranda or précis of evidence. These memoranda, etc., formed the basis of our oral examination. The names of the witnesses and the bodies they represented, as well as of the associations who provided memoranda, but whose representatives it was not necessary to examine orally, are given in Appendix I.

It is with the greatest regret that the Committee have learnt of the death of Sir William Glyn-Jones, who was a witness before them, and whose long official connection with the Pharmaceutical Society of Great Britain and intimate experience of the working of the Poisons and Pharmacy Acts invested his evidence with a peculiar value and authority.

At great inconvenience to himself, Sir William Glyn-Jones, on the request of the Committee, prepared a detailed statement

of the points which, in his opinion, required legislative amendment. In particular, the part which he bore in the negotiations leading to the passage of the Poisons and Pharmacy Act, 1908, enabled him to throw great light on the questions which arose in connection with that statute.

4. The question referred to us being the desirability or necessity of the amendment of the Poisons and Pharmacy Acts in certain respects, it was thought that it might be of assistance to embody the recommendations of the Committee in a Draft Bill. This has, accordingly, been done, and the Draft Bill is printed as Appendix III to this Report. Throughout this Report any of its provisions is referred to as a "clause" or "sub-clause".

5. Part I of this Report gives some account of the position under the existing law relating to pharmacy and poisons, and of the main objects, in our view, to be attained by amendment of that law. Part II deals with the evidence laid before the Committee and their recommendations.

## PART I.

6. *Present Poisons and Pharmacy Legislation.*—Appendix II to this Report consists of a note on this subject. It is to be observed that the scheme of the Poisons and Pharmacy Acts does not distinguish the law relating to the practice of pharmacy from that relating to poisons. Both are frequently dealt with in the same section. In both cases the Privy Council is the Central Authority; in both cases the Pharmaceutical Society of Great Britain exercises the control. Broadly speaking, the Pharmaceutical Society possesses, by virtue of charter, statute or its own bye-laws, complete control over its property, over the examination of candidates and the grant to them of certificates of competence, the keeping of its register of members, the election of its Council, the appointment of its officers, and the business and procedure at its meetings, as well as the power to sue, in England and Wales, for penalties in cases of the misuse of professional titles. But, in addition to these powers, domestic in character and relating to the practice of pharmacy, the Society possesses others, of wider scope, relating to poisons. The Schedule—or authentic statutory list—of Poisons cannot be amended, nor can any regulation as to the keeping, dispensing and selling of poisons be made, save on the proposal of the Council of the Society, subject, in both cases, to the approval of the Privy Council. Further, the penalty prescribed by statute for the breach of any such regulation may be recovered, in England and Wales, only by the registrar of the Society by an action, civil in form. It is not for a moment suggested that the Pharmaceutical Society have, in any sense, misused their powers in these latter respects. On the contrary, their record of service for a period of over 60 years, without cost to the State

is honourable and distinguished. But the Committee have had expressed before them an impressive volume of opinion to the effect that, however well the powers in question may have been exercised, it is, on principle, undesirable that important duties such as these, public both in their character and effect, should be discharged by a voluntary society or, indeed, otherwise than by an Authority and on the footing of a responsibility public likewise, in its character. As might be expected, the great growth in the discovery of new poisons and of new uses of poisons has served to strengthen this view.

7. The distinction between these two things, Poisons on the one hand and Pharmacy on the other, is obvious, whether considered from the point of view of their scope or their subject-matter. Their severance, while it presents no difficulty, offers, in our opinion, great public advantages. In that severance lies the key to the recommendations of the Committee. As will be seen, Pharmacy and Poisons are dealt with, respectively, in Part I and Part II of the Draft Bill.

8. It is, without doubt, desirable that the profession of pharmacy should hold out sufficient hopes of reward to ensure a high standard of training and efficiency in its members; on the other hand, any claim savouring of monopoly in the control of poisons breaks down in the face of the facts as they exist to-day. Further, there is the problem of reconciling precautions against crime, carelessness and ignorance with the grant of reasonable facilities to the public in the purchase and use of poisons for the purposes of medicine, public health and industry. Again, opinion is divided with regard to the value of mechanical regulations as to the storage, etc., of poisons in the shops of registered pharmacists. By some, it is held that these are of small value, and that the real security is the training and knowledge of the pharmacist; by others, it is thought that such regulations should both be imposed and enforced.

The attempt, made in the Poisons and Pharmacy Acts, to adjust these conflicting considerations has resulted in a patch-work of provisions, often confused in form and overloaded with detail. Of these defects, section 17 of the Pharmacy Act, 1868, which deals with the sale of poisons, is a signal example.

9. Such being the position, the main objects of the Committee may be thus summarised :—

- (i) to simplify the law by distinguishing between Pharmacy and Poisons;
- (ii) to strengthen the representative character and the disciplinary powers of the Pharmaceutical Society of Great Britain in their relations to the profession of pharmacy;\*

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\* The existing law gives no power to inspectors, whether of the Pharmaceutical Society or of the local or national authorities, to enter premises, to inspect registers or to take samples—in fact, provides no means of ensuring the effective enforcement of its provisions.

- (iii) to disencumber the statute law of detail—
  - (a) by eliminating the statutory "Poisons Schedule";
  - (b) by enlarging the powers of making rules as to the sale, supply, storage, transport, etc., of poisons; and
  - (c) by providing one procedure for the recovery of all penalties;
- (iv) to attain elasticity and efficiency in the control of an authoritative list of Poisons and in the making of rules as to the sale, supply, etc., of poisons, by handing over these two functions to a new representative body acting under the Secretary of State;
- (v) to secure to the public reasonable facilities for the supply of poisons for agricultural, horticultural, industrial and sanitary purposes, while keeping those who supply them under adequate control.

## PART II.

### EVIDENCE AND RECOMMENDATIONS.

10. Two matters, common to both Pharmacy and Poisons, call for notice at this point. They are:—

- (i) The Central Authority.
- (ii) Enforcement of obedience to Statute and Statutory Rules and Orders.

11. *Central Authority*.—As has been indicated in paragraph 6, the Privy Council is at present the Central Authority both for Pharmacy and Poisons. It is now proposed that, while the Privy Council should retain that position for the former purpose, for the latter there should be substituted "The Secretary of State", by which phrase is intended the Home Secretary. The retention of the historical connection of the Pharmaceutical Society with the Privy Council in pharmacy matters was strongly urged before us by the Society's representatives. It was pointed out that this relationship had worked well in the past; that the experience and mutual understanding gained by that co-operation were, in themselves, valuable; and that the professional status of pharmacy would suffer if it lost the privilege of dealing direct with His Majesty through the Privy Council—a privilege which belongs, for instance, to the medical profession. The Committee accept this view, none the less readily, because it recognises the distinction between the profession of pharmacy and the control of poisons, on which they desire to lay stress.

12. As regards Poisons, the details of the proposals for the new Central Authority will be considered later in this Report. For the moment, it is sufficient to say that they provide for the appointment of an Advisory Committee to be called the "Poisons Board", who shall act under the Home Secretary in

connection with the preparation and any subsequent amendment of the "Poisons List", and the making of rules with respect to various matters relating to poisons.

The essence of these proposals is that, the functions in question being public, the body performing them should be statutory and the ultimate responsibility ministerial and direct to Parliament. The last point is indicated by the description of the body, viz., "Advisory Committee", as well as by the character of its duties, which are to advise and assist the Secretary of State who will act "as he thinks proper".

13. The selection of the Home Secretary to be the Central Authority would appear to be justified on several grounds:—

(a) the Home Secretary, as the Minister responsible, in England and Wales, for the prevention of crime and all questions of "Police", is directly concerned in the control of the sale or supply of poisons and should, therefore, have the decisive voice in the making of rules which he has to administer;

(b) the Home Secretary is directly responsible for the administration of the Dangerous Drugs Acts, which are closely connected with the administration of the Poisons and Pharmacy Acts and embrace substances included in the latter Acts; and he is brought by the duties of that administration into close contact with the Pharmaceutical Society of Great Britain on many points;

(c) the Home Secretary acts on behalf of the Privy Council in the House of Commons in regard to all questions relating to the administration or amendment of the Poisons and Pharmacy Acts.

It is desirable that there should be uniformity in the administration of the law relating to poisons as between England and Scotland. Accordingly, it is contemplated that, as in the case of the Dangerous Drugs Acts, the Home Office will, by administrative arrangement and in consultation with the Scottish Office, act as the Central Authority for Great Britain.

14. *Enforcement of obedience to statute and statutory rules.*—The existing statutes exhibit a great diversity, not to say confusion, in this respect, as the following table shows:—

Statute.	Procedure.	Penalty.
(i) Arsenic Act, 1851 ...	Summary conviction ...	Not exceeding £20.
(ii) Pharmacy Act, 1852...	Civil action by registrar of Pharmaceutical Society.	Fixed at £5.
(iii) Pharmacy Act, 1868, ss. 1 and 15.*	do. do.	do.

\* These sections embrace offences relating to misuse of titles, breaches of statute or rule as to keeping, selling compounding and dispensing poisons, and to "keeping open shop" for any of these purposes.

Statute.	Procedure.	Penalty.
(iv) Pharmacy Act, 1868, s. 17. (Sale of poisons.)	Summary conviction ...	Not exceeding— (a) £5, 1st offence. (b) £10, 2nd offence.
(v) Poisons and Pharmacy Act, 1908, s. 2. (Licensed sellers of poisons.)	(a) Civil action under (iii) <i>supra</i> . (b) Summary conviction under (i) or (iv) <i>supra</i> .	See (iii) <i>supra</i> .
(vi) Poisons and Pharmacy Act, 1908, s. 3. (a) Branch businesses. (b) Representatives of deceased pharmacist. (c) Bodies corporate.	Civil action under (ii) and (iii) <i>supra</i> .	See (ii) and (iii) <i>supra</i> .
(vii) Poisons and Pharmacy Act, 1908, s. 5. (Sale of certain poisonous substances.)	Summary conviction ...	Not exceeding £5.

15. The representatives of the Pharmaceutical Society asked for the abolition of the recovery, in England and Wales, by their registrar by civil procedure of the fixed penalty of five pounds under Section 15 of the Pharmacy Act, 1868, on the grounds that (a) though cases differed in gravity, they could not recover less than the full penalty of five pounds, and that they, therefore, had to choose between exacting the full penalty or not proceeding at all; and (b) the proceedings being civil in character, the offenders often paid the penalty either privately, before proceedings were instituted, or, before trial, into Court, in either of which cases the advantage of publicity was lost.

It may be noted that the cost of these proceedings, including inspectors' salaries and expenses, has resulted, after crediting the Society with the penalties recovered, in an annual loss. That procedure disappears, though the interest of the Pharmaceutical Society in the penalty in certain cases\* is recognised by the proposed provision that "any penalty recovered . . . on proceedings taken by, or by the direction of, the Society, shall, notwithstanding anything contained in any public or other Act, be paid to the Society".

This last provision does not apply to Scotland where the proceedings, which in practice have always been criminal in character, are to be taken at the instance of the Procurator Fiscal.

\* The cases referred to are—

- (i) The improper use of titles under clause 5, and
- (ii) Offences relating to the sale of poisons, whether against the provisions of Part II of the Draft Bill or against rules made under clause 17.

16. It is now proposed that all penalties, whether for breaches of the Act or of the rules made thereunder, should be recoverable on conviction under the Summary Jurisdiction Acts, up to a maximum in every case, viz. :—

- (i) For misuse of professional titles—up to £20, and £5 for every day during which the offence continues :
- (ii) For obstructing or failing to assist an inspector—up to £5 :
- (iii) For disobedience of statute or statutory rule as to sale, supply, manufacture, storage, transport, etc., of poisons—up to £50 :
- (iv) For use by a person, who is entitled under clause 16 to sell poisons in Part II of the Poisons List, of any title or description reasonably calculated to suggest that he is entitled to sell any poison other than one in Part II of the Poisons List—up to £5.

In all these cases the prosecutor, whoever he be, will, in England and Wales appear as a “common informer”; and in cases within category (iii), proceedings may be commenced at any time within twelve months after the commission of the offence, or, in the case of proceedings instituted by, or under the direction of, the Secretary of State (in Scotland, the Lord Advocate), within three months from the date on which evidence, sufficient in the opinion of the Secretary of State (in Scotland, the Lord Advocate) to justify a prosecution for the offence, comes to his knowledge, or within twelve months after the commission of the offence, whichever period is the longer.

17. *Inspection.*—No powers of inspection are given by the existing statutes. The results of this omission are reflected in the annual reports of the registrar of the Pharmaceutical Society. Out of about 10,000 qualified pharmacists' shops in Great Britain 4,307 were visited in 1924, and 4,519 in 1925, by the Society's inspectors, the large majority of these being branch businesses, for the purpose of ascertaining whether the certificate of qualification of the person conducting the business was exhibited as required by law. The lists of proceedings instituted by the Society in 1923, 1924 and 1925 show that they were, almost all of them, for the keeping of drug stores by unqualified persons or for the improper use of professional titles. It was admitted that proceedings were very rarely taken for the breach of rules as to selling, storing, and dispensing poisons, the reason given being that the inspectors possessed no powers to make inspection effective for these purposes. The inspectors are not pharmacists.\* The staff of full-time inspectors, all of them women, numbers four in England and one in Scotland. In the

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\* “*Pharmacist*”, wherever used in this Report, includes, as in the Draft Bill both “*Pharmaceutical Chemist*” and “*Chemist and Druggist*”.

opinion of the Committee this state of things is unsatisfactory. It should be remedied and an adequate system of inspection secured.

18. We propose, therefore, that the duty of inspecting premises which are on the register of premises should be imposed by statute upon the Society ; and that, subject to the approval of the Privy Council on certain points, the Society should, for this purpose, appoint inspectors, who must be pharmacists, and will possess powers to make their inspection effective, obstruction of or failure to assist an inspector being punishable by fine, on summary conviction.

19. Broadly, this inspection will be directed to securing compliance with the law in the following respects :—

- (i) Improper or misleading use of professional titles ;
- (ii) Registration of premises of “authorised sellers of poisons”;
- (iii) Conduct of businesses by registered pharmacists ;
- (iv) Conduct of businesses by corporations and (in Scotland) firms ;
- (v) Conduct of businesses by executors of deceased pharmacists ;
- (vi) Rules as to sale, supply, transport, storage, etc., of poisons.

Persons, other than pharmacists, permitted under clause 16 to sell poisons in Part II of the Poisons List will be subject to inspection by the Local Authority. (*Vide*, paragraphs 61, 62 and 63 infra.). In all cases of the illegal sale of a poison any one may prosecute as a “common informer” (except in Scotland, where, as already indicated, prosecutions will be undertaken by Procurators Fiscal).

20. This inspection of pharmacists will increase both the disciplinary power and the expenditure of the Society. On the other hand, there are proposals of the Committee, which should result in strengthening the representative character of the Society and in substantially augmenting its income.

Under the Society’s present constitution, members are elected on their application, by the Council from among those who are registered as “Pharmaceutical Chemists” and “Chemists and Druggists”. At present, it appears, there are only 12,500 members out of 20,000 eligible for membership. This is, in our opinion, an element of weakness both to the Society and the profession of pharmacy, which it would be well to remove. It is now proposed that registered persons, should, by virtue of registration, become members of the Society.

21. In addition to the registration fee, it is proposed that there should be paid, for retention of the member’s name on the register, an annual fee, to be prescribed by bye-law, but not exceeding £2, which need not be uniform for all classes of persons,

and may be entirely remitted. In case of non-payment of this fee, within one month of demand by the Society, the defaulter may be struck off the register by the Council of the Society, subject to restoration to the register, on payment of the fee together with a penalty to be prescribed by bye-law.

A person ceasing to be registered as a pharmacist shall cease to be a member.

Thus, the Society will be, at any moment, completely representative of the whole body of registered pharmacists, all of them paying members.

It should also be remembered (*vide* paragraph 15, supra) that the loss hitherto incurred by the Society in their civil proceedings for penalties will cease with the abolition of those proceedings themselves.

22. Having regard to the terms of the reference to the Committee, a difficulty arises as to the meaning of the expression "the business of a pharmacist". It may well be held to include things other than those immediately connected with poisons, and therefore outside the scope of the reference, with the result that, by its use, confusion would be created with regard to such points as the use of professional titles, the registration of premises, and the liability to inspection by the Pharmaceutical Society. The expression has, therefore, been avoided, and the term "Authorised sellers of poisons" has been used in the Draft Bill.

The term "Authorised seller of poisons," as defined in clause 22, includes the following persons :—

- (i) Registered pharmacists lawfully carrying on business in accordance with the provisions of clause 5 (5);
- (ii) a body corporate carrying on a business, which comprises the retail sale of drugs, in compliance with the conditions imposed by clause 8;
- (iii) The executor, administrator or trustee of a deceased registered pharmacist carrying on a business, which comprises the retail sale of drugs, in accordance with the requirements of clause 9.

"Authorised sellers of poisons" have, apart from sales "wholesale", the sole right of selling poisons in Part I of the Poisons List; they must register their premises, and are liable to inspection by the inspectors of the Pharmaceutical Society for the purposes of Part I, Part II, and the rules made under Part III of the Draft Bill.

For the purpose of preventing the sale of poisons in Part I of the Poisons List by unauthorised persons, an inspector of the Society is given power to enter any premises in which he has reasonable cause to suspect that a breach of the law in this respect has been committed.

## REGISTER OF PREMISES.

23. Further, clause 3 of the Draft Bill provides that a register of all premises, where a business comprising the retail sale of drugs is being carried on by an "authorised seller of poisons", is to be kept by the registrar of the Pharmaceutical Society. It is the duty of the owner for the time being of the business to register. Failure to register any such premises renders it unlawful for any person to sell on the premises any poison included in the Poisons List.

Any sale of poison on unregistered premises is punishable as an offence against Part II of the Draft Bill. A fee, not exceeding £3, and of the same amount in both cases, is to be paid by the owner for the first registration and annually for the retention of premises on the register. In case of failure to pay the annual retention fee, the premises may be struck off the register by the Council of the Society, subject to their restoration to the register on payment of the fee together with a penalty to be prescribed by bye-law.

24. *Disciplinary powers of the Pharmaceutical Society.*—The only provision dealing with this point is section 26 of the Pharmacy Act, 1868, which is in these terms:—

"The Privy Council may direct the name of any person who is convicted of any offence against this Act which in their opinion renders him unfit to be on the register under this Act to be erased from such register, and it shall be the duty of the registrar to erase the name accordingly".

There is no recorded instance of the user of the power under this section. It was pointed out to the Committee that, the consequence to the person removed from the register being the destruction of his livelihood, and there being no power of restoration to the register, the Society was unwilling to take action. In any case, the section only applies to persons convicted of offences "against this Act", while graver misconduct is left untouched. This was admitted by the Society to be a serious defect. We propose (*vide* clause 6) that section 26 should be repealed and that a "Statutory Committee" should be created of five persons, not necessarily members of the Society or of the Council of the Society, four of them to be elected by the Council of the Society and one, having legal experience, to be chairman and to be appointed by the Privy Council.

This Committee, after holding an inquiry in accordance with the Society's bye-laws, may direct the registrar to remove from the register the name of any person who has been convicted of an offence against the Pharmacy Acts or of any criminal offence, or who has been guilty of conduct rendering him, in their opinion, unfit to be on the register. Right of appeal to the High Court (in Scotland, the Court of Session) within three months, which is to be final, is given, removal from the register

being suspended till the appeal is determined. The "Statutory Committee" may direct the restoration of a name to the register either of their own motion or on application by the person concerned. A similar right of appeal is given from a refusal of restoration.

25. A similar disciplinary power is given by clause 8 over corporate bodies—in Scotland, firms—who are "authorised sellers of poisons", in the following cases:—

- (a) Conviction of the body corporate of an offence against the Pharmacy Acts;
- (b) Conviction of any director, officer or employee of an offence against the Pharmacy Acts;
- (c) Conviction of any director, officer or employee of any criminal offence or proof that he has been guilty of misconduct which, in the opinion of the Statutory Committee, renders him, or would, if he were a registered pharmacist, render him unfit to be on the register.

Unless the body corporate prove that there was no instigation or connivance on the part of their superintendent or any director or other officer, they may, after inquiry held, and by virtue of the direction of the Statutory Committee, cease to be "authorised sellers of poisons", lose the right to use any title or description which, as such authorised sellers, they are entitled to use, and any or all of their premises may be removed from the register of premises and be disqualified for any specified period from registration.

Right of final appeal, within three months, to the High Court (in Scotland, the Court of Session) from the Statutory Committee's direction is given, the operation of the direction being suspended till the appeal is determined.

In our opinion, the reasons for control over individual pharmacists apply with equal force in the case of bodies corporate.

#### IMPROPER USE OF PROFESSIONAL TITLES.

26. The Pharmacy Act, 1868 (sections 1 and 15)\* prohibits the use of certain definite titles by any unregistered person; and it is provided by clause 5 (1) of the Draft Bill as follows:—

"It shall not be lawful for any person unless he is registered as a pharmaceutical chemist to take or use the title of pharmaceutical chemist or pharmaceutist, or for any person unless he is registered as a pharmacist to take or use the name or title of chemist and druggist, or of druggist or of pharmacist, or to take or use in connection with the sale of goods by retail the name or title of chemist".

Further, section 12\* of the Pharmacy Act, 1852, prohibits the use by an unregistered person of "any name, title or sign

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\* It is proposed to repeal these sections.

implying that he is registered under this Act or that he is a member of the said (i.e., Pharmaceutical) Society". The use of the word "Pharmacy" was held by a Divisional Court in 1909 not to be an offence against this section; and, generally, experience has shown that this provision is somewhat narrow for the purpose of preventing the deception of the public. It is proposed, therefore, that it should be made unlawful for any person to use "any title or description reasonably calculated to suggest that he or anyone employed in the business carried on in the premises possesses any qualification with respect to the selling or dispensing or compounding of drugs or poisons other than the qualification which he in fact possesses" (clause 5 (2).).

27. "*Chemist*".—The use of this title by an unregistered person is prohibited generally by the Pharmacy Act, 1868. The result is that a member of the Institute of Chemistry may not, legally, call himself a chemist. Though in practice this prohibition has not been enforced, it is, in our opinion, wrong that it should remain on the statute book. The witnesses who gave evidence on behalf of the Pharmaceutical Society raised no objection to the use of the title "Chemist" by certain qualified, though unregistered, persons, except in connection with a retail business. (clause 5 (1).) This is a concession long overdue; and we propose that it should be the law.

The relinquishment of the title "Chemist" by registered pharmacists was suggested; but this is, in our opinion, impracticable both from the point of view of the expense involved in the alteration and removal of signs and facias affixed to pharmacists' shops, and of the popular connotation of the word itself. Further, even in the event of such relinquishment, the maintenance of a high standard of qualification for chemists, which is the avowed object of the Institute of Chemistry, would not, in present circumstances, be secured.

28. *Corporate bodies and (in Scotland) firms; branch businesses*.—Apart from the important proposals with regard to the registration of premises (*vide para. 23, supra*) and disciplinary control by the Society (*vide paras. 24 and 25, supra*), the law applicable to these cases is changed in two respects. Firstly, it is no longer the certificate of "qualification", but of "registration", relating to the superintendent or manager, who personally conducts the business, which is to be exhibited in the premises where the business is carried on. This amendment removes a doubt as to what certificate is intended, and applies also in the case of a business carried on by the personal representatives of a deceased pharmacist (*vide next paragraph*). Secondly, the premises, where a body corporate, which is an "authorised seller of poisons", carries on business, may be described as a "Pharmacy".

29. *Executors, etc., of a deceased pharmacist.*—Under the existing law, such persons may use professional titles and sell, dispense or compound\* poisons so long as a registered pharmacist *bona fide* conducts the business and exhibits his name and a certificate of qualification in the premises. It would appear that there are cases in which executors remain professedly in the control of a business for a considerable period; that it is difficult to ascertain when the estate has been wound up, or even whether the business has been sold, and that, in consequence, difficulties arise and irregularities occur. It is proposed, therefore, following the provisions of section 19 (2) of the Pharmacy and Poisons Act (Northern Ireland), 1925, to limit the period for which the representatives of a deceased pharmacist may carry on a business to five years, subject, in proper cases, to extension by the "Statutory Committee" (*vide* para. 24, *supra*), from whose decision a right of final appeal to the High Court (in Scotland, the Court of Session), within three months is given.

It is proposed to give to the Statutory Committee disciplinary power over executors, etc., and their employees similar to that described in para. 25, *supra*.

30. *Improper compounding.*—By section 15 of the Pharmacy Act, 1868, it is made unlawful to "compound any medicines of the British Pharmacopoeia except according to the formularies of the said Pharmacopoeia". This provision it is proposed to repeal. It has rarely, if ever, been enforced, and its meaning is obscure.

### 31. *Changes in constitution of Pharmaceutical Society.*

(i) The cumbrous provision, which requires bye-laws to be confirmed and approved by a special general meeting of the Society, is to be repealed and not re-enacted.

(ii) The Privy Council is to be given power to nominate three additional members of the Council of the Society, their period of office to be determined by the Privy Council. This provision is intended to secure the representation on the Council of other scientific and educational opinion. It will serve also to maintain touch between the Privy Council and the Pharmaceutical Society.

32. *Control of the Pharmaceutical Society's curricula and examinations.*—No change is proposed in these respects.

33. So far, this Report has dealt with points either relating to the profession of pharmacy or common both to pharmacy and poisons. There remain to be considered the law relating to poisons and the proposals of the Committee in connection therewith.

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\* As to the phrase "keeping open shop" for these purposes see para. 49  
*infra*

### Poisons.

34. *Repeal of existing legislation.*—The proposed poisons legislation is to form a new code relating to the sale and supply of poisons, all existing enactments on that subject, including the Arsenic Act, 1851, being repealed as from the “appointed day”. The “appointed day” will fall on different dates for different purposes. For instance, the “Poisons Board” will come into existence before the repeal of the existing poisons legislation, which will continue to apply until the new Poisons List and Rules come into operation.

### CENTRAL AUTHORITY.

35. As has been stated in paras. 12 and 13, *supra*, it is proposed to make the Home Secretary, assisted by an Advisory Committee, to be called the “Poisons Board”, the Central Authority in matters relating to poisons. This proposal is somewhat on the lines of the Therapeutic Substances Act, 1925.

36. The constitution of the Board is dealt with in the First Schedule to the Draft Bill. Departments of State, specially interested in poisons, are represented thereon, as well as the professions of pharmacy, chemistry and medicine—the first, by five members appointed by the Pharmaceutical Society; the second, by the Government Chemist or a member of his staff appointed by him; the third, by one person appointed by the Royal College of Physicians of London, one person appointed by the Royal College of Physicians of Edinburgh, and one person appointed by the General Medical Council. The members serve for three years, and are eligible for re-appointment. The Home Secretary may add not more than four to their number, and appoints the Chairman from among the members.

37. The functions of the Board are:—

- (i) to prepare and submit a “Poisons List” to the Secretary of State;
- (ii) to consider or recommend any amendment or variation of the “Poisons List”.
- (iii) to assist the Secretary of State in making rules with respect to the sale, wholesale or retail, or the supply of poisons, and various other matters relating to poisons.

38. *The “Poisons List”.*—This list is to be divided into two parts, the first of which will consist of poisons which may not be sold retail except by “authorised sellers of poisons”; the second, of poisons which may be sold retail only by the “authorised sellers of poisons” or by persons entitled under clause 16 to sell poisons in Part II of the Poisons List (*vide* para. 61, *infra*).

The list ceases to be a schedule to a statute. The order of the Home Secretary confirming the original List, or any order amending or varying it, will, after lying before each House of Parliament for 30 days, acquire statutory force; but will be void

if, within that time, an address is presented by either House praying that it may be annulled.

By this procedure, it is hoped, the rigidity of legislation will be avoided, and elasticity attained in respect of a subject-matter which is liable to change.

39. A considerable amount of evidence, technical in character, was directed to the inclusion in or exclusion from the Poisons List of specific substances. This is a matter, as has been said, which is, in our opinion, outside the terms of our reference, and one, moreover, the discussion of which would constitute a usurpation of the functions of the Poisons Board itself. But, as to the form of the List, there were points raised before us with reference to which it may be useful to record our opinion.

We are satisfied that difficulty is created in the present Schedule of Poisons by the use of generalisations, and are of opinion that a more definite and individual description of poisons is desirable, wherever possible, in preference to such terms as "preparation", "admixtures", or "derivatives".

40. Provision is made in the Draft Bill for prohibiting by rule the sale of certain poisons in Part I of the List, except on the prescription of a registered medical practitioner, dentist or veterinary surgeon, and for prescribing the form and regulating the use of prescriptions in such cases. There is a class of poisons of so dangerous a character that it is thought undesirable for private persons to prescribe their use for themselves. The intention is that, in any case, there should be included in this category the drugs of the barbituric acid group, such as veronal, the repeated use of which often leads to fatal results and, in the opinion of some authorities, to addiction.

"Dangerous Drugs" legislation has done much with regard to drugs such as morphine, cocaine and heroin, but there is still need for legislative control over the sale or supply of other drugs, only less dangerous than those last mentioned.

41. Another point is raised by the inclusion in Part II of the present Schedule of Poisons of "carbolic acid and liquid preparations of carbolic acid and its homologues containing more than 3 per cent. of these substances".

There is here involved a serious question of policy with regard to disinfectants. It is important, in the interests of public health, that effective disinfectants should be used; but the average purchaser for domestic and kindred purposes, instead of going to a chemist and getting from him a really effective article which, because it is a poison, he cannot get elsewhere, inclines to buy from a grocer or general dealer an inferior article, bearing, perhaps, the same or a similar name, not a "poison", but one which, as a disinfectant, is inefficient in fact. This point was strongly urged by the Society of Medical Officers of Health. Whatever the remedy may be, the question merits serious consideration.

## SALE AND SUPPLY OF POISONS.

42. Clause 14 of the Draft Bill collects and re-enacts, with some amendments,\* the scattered provisions in the Pharmacy and Poisons Acts and the Dangerous Drugs and Poisons (Amendment) Act, 1923, relating to this subject.

43. It is stated in paragraph 38 of this Report who are the persons permitted to sell by retail poisons included in Part I and Part II of the Poisons List, respectively.

44. Clause 14, sub-clauses (1) and (2), are to be read subject to other provisions contained in this Part of the Draft Bill, viz.:—

- (i) Sub-clause (3) of clause 14, which relates to certain special cases, e.g., the professional supply of medicine by a doctor, dentist or veterinary surgeon; a medicine dispensed or a poison forming part of the ingredients of a medicine supplied by an “authorised seller of poisons”;
- (ii) The exemptions in clause 15;
- (iii) Clause 16, relating to the sale of poisons in Part II of the Poisons List;
- (iv) The rules made by the Secretary of State under clause 17.

Broadly, Part II of the Poisons List will embrace some poisonous preparations used for sanitary, industrial, horticultural or agricultural purposes, or as sheep-dips or vermin-killers: the rest will, subject to statutory rules, go into Part I of the List.

It has been objected that, having regard to the onerous provisions of sub-clause (2) of clause 14, relating to the sale of poisons in Part I of the List, the result will be to place registered pharmacists who sell these at a disadvantage in the conduct of their business as compared with sellers of poisons in Part II of the List under clause 16. But there seems to be no adequate ground for this fear; for it is to be remembered that, with this point in mind, it is expressly provided by clause 17 that the rule-making authority shall have power, by rule, to dispense with or relax, “in the case of any poisons or any class of poisons any of the provisions imposed with respect to the sale of poisons”. It is anticipated, for instance, that preparations containing very small quantities of “Part I poisons” will receive consideration under this provision.

45. Subject, then, as aforesaid, clause 14 begins by making it unlawful—

- “ (a) for any person to sell any poison included in the first part of the Poisons List, unless—
- “ (i) that person is an authorised seller of poisons;
- “ and
- “ (ii) the sale of the poison is effected by or under the supervision of a registered pharmacist.”.

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\* These amendments are in *italics* in paragraphs 46, 47 and 48.

(a) (ii) is necessary to continue the protection given to the public with reference to the sale of poison by section 1 of the Pharmacy Act, 1868, which it is proposed to repeal.

46. No poison in the Poisons List is to be sold unless the container is labelled :—

- (i) With the name of the poison;
- (ii) In case of a preparation which contains poison, with particulars of the proportion of poison to the total ingredients;
- (iii) With the word “poison”, or other prescribed indication of the character of the article;
- (iv) With the name and address of the seller of the poison.

A difficulty arises as to the position of the retail seller in the case of proprietary articles supplied directly to him by the manufacturer in wrappers. With regard to (i) and (ii), only the manufacturer can give these particulars, as he alone knows the formula on which the preparation is compounded. With regard to (iii) and (iv), if “container” includes “wrapper”, the object of these provisions will be defeated, whoever affixes the label, as the wrapper will generally be torn off and lost by the purchaser; if, on the other hand, “container” means the bottle or vessel immediately containing the preparation, the retail seller cannot affix the label without tearing off the wrapper and so rendering the package unsaleable. The point may, perhaps, be left to be decided by statutory rule, to which the manufacturer of preparations containing poison, the wholesale dealer and the retail dealer will all be subject.

The alternative permitted by (iii) to the word “poison” is a concession to the view that the too common use of that word destroys its monitory effect and that it often suggests rather than prevents suicide.

47. In the sale of any poison in Part I of the Poisons List, the following conditions must be observed :—

- (i) The purchaser must be either—
  - (a) certified in writing; or
  - (b) known by the seller or by some registered pharmacist in the employment of the seller at the premises where the sale takes place to be a person to whom the poison may properly be sold.
- (ii) The seller, before delivery, must enter in a book kept for that purpose :—
  - (a) The date of the sale;
  - (b) The name and address of the purchaser;
  - (c) The name and address of the person giving the certificate;
  - (d) The name and quantity of the article sold;

(e) The purpose for which the purchaser states the article is required.

(iii) The purchaser, before delivery, must sign the entry.

Who may so certify under (ii) (a) and the form of the certificate are matters to be prescribed by statutory rule.

Under the existing law, the requirements in the case of a purchaser "unknown to the seller" is that he should be "introduced by some person known to the seller". A similar condition is imposed by the Schedule of Poisons in the case of the removal of preparations of arsenic used for certain purposes from Part I into Part II of the Schedule. These preparations are required to be "sold upon an order in writing given by or on behalf of a person, firm, or body corporate known to the vendor". The interpretation of the words "known to the vendor" raises difficulties.

Who is a person "known to the vendor"? Is commercial knowledge sufficient? Or must it be personal knowledge? If the latter, how can a corporation ever be "known to the vendor"? If the former, what degree of knowledge is sufficient? Does one previous order for grass seeds, for instance, justify sending arsenical weed-killer to a horticulturist? In either case, is an order by post permissible having regard to the absence of proof that the order is sent by the person who purports to sign it?

It seems a strong thing to hold, in accordance with a view expressed before us, that "order in writing" does not cover an order by post. The proposed change in the law avoids these difficulties in some measure, and adopts machinery which is familiar and has been found workable in connection with the issue of passports.

48. By sub-clause (3) of clause 14 it is provided that nothing in that clause shall apply to the following cases :—

(a) to a medicine supplied professionally by a registered medical practitioner, a dentist or veterinary surgeon;

(b) to a medicine dispensed by a person who is an "authorised seller of poisons";

(c) to a poison forming part of the ingredients of a medicine supplied by an "authorised seller of poisons".

But, in these cases, the following conditions must be observed :—

(i) The medicine must be distinctly labelled with the name and address of the person supplying or dispensing it;

(ii) There must be entered in a book, kept for the purpose by the person supplying or dispensing the medicine, the following particulars :—

(a) *the date on which the medicine was dispensed or supplied;*

(b) the ingredients of the medicine;

(c) if the medicine was dispensed, the name or initials and, if it be known, the address, of the person by whom and the name and, if it be known, the address of the person to whom and the date on which the prescription was given;

(d) if the medicine was not dispensed, the name of the person to whom it was supplied.

The words *italicised* in (a) and (c) are substituted for "the person to whom it" (i.e., the medicine) "is sold or delivered" in the existing statutes; and provide, in our view, more useful evidence for tracing a sale of poison.

The period for which the books, to be kept under these provisions, are to be preserved is to be prescribed by statutory rule.

The provisions of (ii) as to entry in a book do not apply to medicine supplied on a written prescription given by a duly qualified medical practitioner under the National Health Insurance Acts.

(iii) In the case of a medicine supplied or dispensed by an "authorised seller of poisons", the medicine, if compounded by the supplier or his employee, must be compounded, and, in any case, must be supplied by or under the direct supervision of a registered pharmacist.

This provision only makes obligatory what is already the practice of every careful pharmacist.

49. "*Keep Open Shop*".—With the repeal of the provisions of the Poisons and Pharmacy Acts relating to the sale and supply of poisons, the expression "keep open shop" disappears. Nor is it re-enacted.

"Keeping open shop", after all, is only one instance of "sale" which is controlled by the Draft Bill, wherever it takes place. Nor will the deletion of this phrase permit the person, whose the business is, to escape liability for "selling" in breach of the law; as it is provided by clause 14 (4) of the Draft Bill that "For the purpose of this Act, if the sale or supply of a poison is effected by an employee on behalf of his employer, the poison shall be deemed to have been sold or supplied by the employer". This provision is merely a recognition of the Common Law, which holds every master liable for acts done by his servant within the scope of his employment. Further, considerable difficulty has been felt in deciding what is an "open shop", and who "keeps" it. It is also to be remembered that this phrase is used only in connection with "retailing . . . poisons" and that section 16 of the Pharmacy Act, 1868, excludes a wholesale dealer from the operation of the first 15 sections of that Act. Under the Draft Bill the wholesale dealer is only exempted "except as provided by rules under this Act". "Keeping open shop for retailing poisons", therefore, becomes a meaningless limitation.

## EXEMPTIONS.

50. Clause 15 of the Draft Bill provides as follows :—

“ Except as provided by rules under this Act, nothing in the foregoing provisions of this Part of this Act shall extend to or interfere with—

“ (1) the sale of poisons by way of wholesale dealing ; or

“ (2) the sale of poisons to be exported to purchasers outside the United Kingdom ; or

“ (3) the sale of an article for use in or in connection with any hospital, infirmary, dispensary or similar institution approved by an order, whether general or special, of the Secretary of State ; or

“ (4) the sale of an article to—

“ (a) a person who requires the article—

“ (i) for the purpose of his trade, business or profession ; or

“ (ii) for the purpose of enabling him to comply with any requirements made by or in pursuance of any enactment with respect to the medical treatment of persons employed by that person in any trade or business carried on by him ; or

“ (b) a Government department or officer, or local authority, requiring the article in connection with the exercise by the department, officer or authority of any statutory powers ; or

“ (c) a person or institution engaged in scientific education or research if the article is required for the purposes of that education or research.”.

As has been pointed out, these exemptions are not absolute, but are subject to control by statutory rule, with intention, so that, for instance, the provisions of clause 14 (1) (d) of the Draft Bill may be applied and, in the case of sale “ wholesale ”, etc., etc., the containers of poisons be labelled with the word “ poison ” or other prescribed indication of the character of the article, and, in the case of a preparation containing poison, with the proportion of the poison to the total ingredients.

Apart from the exemptions, already dealt with under paragraph 48 hereof, the position with regard to exemption under the existing law is as follows :—

(1) Exemption from the first 15 sections of the Pharmacy Act, 1868, is granted by section 16 of that Act to :—

(a) Making or dealing in patent medicines ;

(b) Wholesale dealers, supplying poisons in the ordinary course of wholesale dealing.

(2) Partial exemption from the provisions of section 17 of the Pharmacy Act, 1868—*inter alia*, from the keeping of a “poison book” by the seller—is granted by that same section 17 to :—

(a) Articles to be exported from Great Britain by wholesale dealers;

(b) Sales by wholesale to retail dealers in the ordinary course of wholesale dealing.

51. Difficulties have arisen in connection with the word “wholesale”, which is not defined in the Poisons and Pharmacy Acts. It would appear that the sets of words in the two sections, referring to “wholesale”, which are slightly different one from the other, have been treated, in practice, as covering a whole range of sales for professional and kindred purposes, e.g., to doctors, hospitals, agriculturalists, etc., etc., even in cases of sale by retail dealers. Then came the Dangerous Drugs and Poisons (Amendment) Act, 1923, section 3 of which proceeds upon the view that the words referring to “sales by wholesale” in section 17 of the Pharmacy Act, 1868, do not cover sales to doctors, dentists and veterinary surgeons. On that footing, the practice being followed was illegal, and doubt and confusion have resulted.

This clause treats “sales wholesale” as only one case for exemption and sets out the other cases expressly and definitely. This, in the view of the Committee, is the only proper method.

“Wholesale dealing” is defined in the Draft Bill as “sale to a person who buys for the purpose of selling again”.

52. In the evidence given on behalf of the Home Office it was pointed out that, in a recent case of a charge of murder, arsenic, ostensibly for horticultural purposes, was supplied by a wholesale dealer direct to the purchaser at the request of a retail dealer, and treated as a “sale wholesale”, with the result that detection was hampered by the absence of a record kept by the seller, and it was urged, from the point of view of prevention of crime, that such a sale should be considered a “retail sale”. That object will be secured by the proposed definition of “wholesale dealing”.

It is assumed that, in the case referred to, the invoice was sent to and payment made to the wholesale dealer by the purchaser. Otherwise, no question arises; because, had the retail dealer received the invoice from the wholesale dealer and paid him for the goods, the sale to the purchaser would have been a retail sale to him by the retail dealer, and there would have been a record.

Articles sold for export from Great Britain, in so far as they are sold wholesale, are exempted by the provision relating to “sale by way of wholesale dealing”. But it is clearly impracticable that poisons in Part I of the Poisons List, sold retail for export, should be subject to the provisions requiring the signature by the purchaser of the entry in the seller’s poison book. The

conditions of sale in such cases will be laid down by the rule-making authority.

53. The exemption relating to "patent medicines" is repealed.

"Patent medicines" in the sense contemplated by the Pharmacy Act, 1868, have ceased to exist. They were "patented prescriptions", for the most part harmless. By virtue of the Patents and Designs Act, 1919, prescriptions may no longer be patented. Further, it was decided in *Pharmaceutical Society v. Piper* (1893), 1 Q.B. 686, that the words "patent medicines" in section 16 of the Pharmacy Act, 1868, mean medicines protected by letters patent and do not include proprietary medicines. To-day a medicinal substance can only be protected by letters patent, if and in so far as it is produced by a new and special process. But with the great growth in the synthetic production of drugs by special processes, such drugs may be, and frequently are, protected by letters patent, e.g., potent drugs of the barbituric acid group. There seems to be no good reason why such drugs should be exempted from that control under the Pharmacy Acts to which non-patented poisonous drugs are subject. Indeed, there seems to be very good reason to the contrary.

54. The only persons granted exemption by the Pharmacy Acts, as requiring the article bought for professional purposes, are registered medical practitioners, dentists and veterinary surgeons. By section 3 of the Dangerous Drugs and Poisons (Amendment) Act, 1923, which is repealed by the Draft Bill, they are dispensed from the obligation imposed by section 17 of the Pharmacy Act, 1868, to sign an entry in the "poison book" on certain conditions. The exemptions, as proposed in this clause of the Draft Bill, are quite general in their terms. The great growth in many directions of the use of poisons demands this concession.

A strong protest was made to us by the representatives of the British Medical Association against the provision in section 3 of the Dangerous Drugs and Poisons (Amendment) Act, 1923, which requires "an order in writing signed by the purchaser" from a doctor purchasing poison, as being harassing and unnecessary. This will be a point for the rule-making authority to consider.

Instances of the statutory requirement of medical treatment for employees are afforded by the Factory Acts.

The other cases of exemption, proposed by this clause, speak for themselves.

#### POWER TO MAKE RULES.

55. By clause 17, power is given to the Secretary of State to make rules as to certain matters after consultation with, or on the recommendation of the Poisons Board. The scope of this power is very wide, and we recognise that objection may be made

to the clause on the ground that it goes beyond what are usually recognized as the proper limits of such clauses. This point has been present to our minds; but we have come to the conclusion that the subject matter with which we have to deal is an exceptional one, and that it is such that some clause, scarcely, if at all, narrower than clause 17, is essential. It is not merely that problems will arise which turn on considerations of a detailed and highly technical nature, though this is true enough. There are other difficulties also. It is almost certain that problems of a pressing nature, which it is impossible to foresee, will, with the progress of science, arise in the working of our proposals. Again, the great increase in the efficiency of the administration of the law as to poisons which we hope will result if our proposals are adopted will almost certainly reveal both stringencies and laxities, hitherto unsuspected, such as to demand immediate rectification. It follows, in our opinion, that there is a case for the provision of a form of control less dilatory and less rigid than that of statutory enactment. Parliamentary supervision of the exercise of the rule-making power will be facilitated by the provisions of clause 20, which requires the laying of all rules before each House of Parliament and provides for their annulment if a resolution is passed by either House for that purpose.

"Manufacture", in the sense of the mass production of poison, was not regarded as within the terms of our reference, nor was evidence entertained with regard to it. It is only in respect of "pharmaceutical preparations containing poisons", the trade in which is now on a large scale, that "manufacture" of poison is brought under the control of statutory rule, with a view to requiring pharmacists or qualified chemists to be in control of their preparation. The evidence before us was to the effect that such control is already provided by careful manufacturers.

56. The control of exempted persons and persons entitled under clause 16 to sell poisons in Part II of the Poisons List is indicated in this clause of the Draft Bill by the references to "the sale . . . . of poisons by or to any persons or classes of persons" and to "dispensing with or relaxing" the provisions of the Statute "in the case of any poisons or classes of poisons".

57. In connection with the "storage" of poisons, complaint was made that the meaning of regulation No. 2 in the Order-in-Council, dated 5th June, 1902, is not clear. That regulation provides as follows:—

"Also that in keeping of poisons, each poison be kept on one or other of the following systems:—"; then follows the description of three systems. Does this mean that each poison, wherever it is kept, must be kept on one, and only one, of the systems, or that the same poison may be kept in the shop, for instance, on one system, and in the warehouse, on another?

### SALE OF POISONS IN PART II OF THE POISONS LIST.

58. Under section 2 of the Poisons and Pharmacy Act, 1908, licences may be granted to persons other than registered pharmacists to sell, subject to regulations by Order-in-Council, certain "poisonous substances" for agricultural or horticultural purposes or for use as sheep-dip.

The grant of such licences is left to the discretion of the Local Authority, as therein defined, which is directed to have particular regard to the question whether the public requirements in this respect in the neighbourhood are already satisfied. There was evidence given before the Committee that the working of this section is unsatisfactory, resulting in the capricious grant or refusal of licences and in an undue restriction of facilities for the supply of the articles in question.

59. Under section 5 of the same Act it is made unlawful to sell by retail certain "poisonous substances", not scheduled poisons, save under regulations imposed either by the section itself or by Order-in-Council.

Those substances, to-day, are :—

Ammonia—liquid preparations containing more than 5 per cent. by weight of free ammonia.

All liquid preparations sold as carbolic or carbolic acid or carbolic substitutes or carbolic disinfectant, containing not more than 3 per cent. of phenols.

Hydrochloric acid.

Nitric acid.

Oxalic acid, soluble salts of.

Sulphuric acid.

60. Both these sections it is proposed to repeal.

Clause 16 of the Draft Bill, which takes their place, deals with the matter in quite general terms and mentions neither any specific substance nor any purpose for which it may be required. In this respect, like the exemption clause relating to a person who requires the article purchased "for the purpose of his trade, business or profession" (*vide* paragraph 54, *supra*), it recognises the growth in the number and uses of poisons.

61. It is proposed that persons, other than "authorised sellers of poisons", having a place of business within the area, may, on application in writing in accordance with rule, and on payment of a prescribed fee, have their names placed on a list, to be kept by the Local Authority, of persons within the area entitled to sell poisons in Part II of the Poisons List.

Fees are also payable on alteration of the list in relation to premises, and annually for retention of the name on the list.

Subject to a right of appeal, in England and Wales, to Quarter Sessions under rules made by the Secretary of State, and in Scotland, to the Sheriff, the application to be put on the list may

be refused or the name of any person be removed from the list by the Local Authority for any sufficient reason relating personally to the person concerned or to his premises.

One effect of this clause is that the term "poisonous substances" in the Poisons and Pharmacy Act, 1908, which is regarded as unfortunate, disappears, and that all such substances will appear in the second part of the Poisons List.

It may be that some poisons in Part I of the Poisons List may, for certain purposes, be placed in Part II of the List, and so become saleable for those purposes, under clause 16. That question, and others also, e.g., the regulations these persons are to observe in their sales, the fees they are to pay and the form of application for entry in the list, as well as the form of the list itself, are all matters for the decision of the Central Authority.

But it is proposed to make it a statutory requirement (*vide* clause 14, sub-clause 1 (c)) that the sale should be effected in the premises mentioned in the list kept by the Local Authority. This provision is aimed at preventing abuses arising from "hawking".

62. Inspection (*vide* paragraph 19, *supra*) of premises, where the sale of poisons is permitted under clause 16, will be carried out by the officers of the Local Authority or, by arrangement between the Local Authority and the Pharmaceutical Society, by the inspectors of the Pharmaceutical Society.

Penalties for breach of statute or statutory rule or order, up to a maximum of £50, may be recovered by proceedings under the Summary Jurisdiction Acts (*vide* paragraphs 15 and 16, *supra*).

The use by any seller under this clause of any title or description, reasonably calculated to suggest that he is entitled to sell any poison other than one in the second part of the Poisons List, is punishable, on summary conviction, by a fine not exceeding £5.

Further, any seller of poisons under this clause who is convicted before any court of an offence against the Pharmacy Acts or any criminal offence, rendering him, in the opinion of the court, unfit to have his name on the list, may as part of his sentence, have his name removed from the list and be disqualified for any specified period for having his name on any list kept under this clause.

In both these cases there is a right of appeal given by the general law.

63. "Local Authority" is defined for the purposes of this provision as meaning, in England and Wales, "as respects a County the Council of the County, and as respects a County Borough the Council of the Borough". There is much to be said for leaving the duty of keeping the list of sellers under

clause 16 to be discharged by the same local authorities as those who administer the Food and Drugs (Adulteration) Act, 1928, which is *in pari materia*. In view of the recommendation made in paragraph 39 (i) of the Final Report of the Royal Commission on Local Government, with regard to the administration of that statute, that is the effect of this definition.

64. It may be noted that the opinion was expressed before us that danger resides in the use of such popular names as "spirits of salt" and "salts of lemon" for hydrochloric acid and for a mixture of potassium binoxalate and potassium quadroxalate, respectively, both of them "poisonous substances" within section 5 of the Poisons and Pharmacy Act, 1908. It may be difficult to suggest a remedy, but it is the fact that the Registrar-General's Mortality Statistics show that for the ten years, from 1916-1925, hydrochloric acid heads the list of 13 typical poisons, 582 deaths being due to that substance, of which 502 were homicides and suicides.

#### DISPENSING.

65. "Dispensing" is defined in the Draft Bill as "the supplying of a poison on a prescription duly given by a qualified medical practitioner, a registered dentist or a registered veterinary surgeon".

This definition which gives the word its strict meaning, should remove the long-standing confusion between the terms "dispense" and "compound".

66. It was suggested that there might be raised before us the question of the restriction to pharmacists of the dispensing of medicine, generally; but, as is stated in paragraph 1 of this Report, this subject is, in our view, outside the terms of our reference.

It was then suggested that the question might be raised in connection with the dispensing of medicines containing poisons. But, in view of the fact that the very large preponderance of dispensed medicines contain poison, this would have been merely to raise the general question in another form. We are unable, therefore, to make any recommendation on this point.

#### RECOMMENDATIONS.

67. The following is a summary of our main Recommendations :—

- (1) That a new Pharmacy and Poisons Act be passed into law;
- (2) That the profession of pharmacy and the control of poisons, respectively, be kept distinct and dealt with in separate parts of the said Act;
- (3) That the Privy Council continue to be the Central Authority for pharmacy;

(4) That the Privy Council be given power to nominate three additional members of the Council of the Pharmaceutical Society of Great Britain (hereinafter called "the Society"), who shall hold office for such time as the Privy Council may determine.

(5) With regard to registration and membership of the Society :—

(i) That every person registered as a Pharmaceutical Chemist or Chemist and Druggist shall become a member of the Society by virtue of being so registered ; and that the election of members, on their application, from among persons so registered shall cease ;

(ii) That a fee shall be payable for registration and that every member of the Society shall pay an annual fee, to be fixed by bye-law, but not exceeding £2, for the retention of a name on the register, subject to the penalty, in the case of the non-payment, after demand made, of such latter fee, of being struck off the register ; with the right, on payment of the fee and a penalty, to be restored to the register ;

(iii) That any person, ceasing to be registered, shall cease to be a member.

(6) With regard to the constitution of the Society.—

(i) That it shall not be necessary that bye-laws should be confirmed by a special general meeting of the Society ;

(ii) That a "Statutory Committee" be appointed, consisting of five members, not necessarily members of the Society or of the Council of the Society, of whom four shall be elected by the Council, and one, a person of legal experience, to be Chairman, shall be appointed by the Privy Council ;

(iii) That the "Statutory Committee" shall have the following powers :—

(a) to extend the period of five years from the date of the death for which the executor or administrator or trustee of a deceased registered pharmacist is to be permitted to carry on the business of an "authorised seller of poisons" ;

(b) after inquiry, to direct the registrar of the Society to remove from the register the name of any person who has been convicted of an offence against the Pharmacy Acts or of any criminal offence, or who has been guilty of any conduct which, in the opinion of the Statutory Committee, renders him unfit to be on the register ;

(c) either of their own motion or on the application of the person concerned, to direct the registrar to restore to the register any name or entry erased therefrom ;

(d) after inquiry, and in certain cases of conviction or misconduct, to direct (i) that a body corporate (including in, Scotland, a firm) which is an "authorised seller of poisons" should cease to be such, and be deprived of the right to use any title or description which, as such authorised seller, it is entitled to use; (ii) that any or all of the premises of the body corporate or firm be removed from the register of premises and be disqualified, for any specified period, from being registered therein.

The person concerned to have a right of appeal to the High Court (in Scotland, the Court of Session), which shall be final, from the removal of his name from or the refusal to restore his name to the register.

A body corporate or firm to have a similar right of appeal from the direction of the Statutory Committee.

(7) That the law relating to the use of professional titles be amended in the following respects:—

(i) It shall be unlawful for any person, unless he is a registered pharmacist—

(a) to use or affix to or use in connection with his premises any title or description reasonably calculated to suggest that he or anyone employed in the business carried on in the premises possesses any qualification with respect to the selling, dispensing or compounding of drugs or poisons other than the qualification which he in fact possesses; or

(b) to use the title of "chemist" in connection with the retail sale of goods.

(ii) In the provisions relating to the permission to bodies corporate and (in Scotland) firms, and to the executors, etc., of a deceased pharmacist, to carry on the business of an "authorised seller of poisons", "certificate of registration" shall be substituted for "certificate of qualification".

(iii) That a body corporate, or firm which is an "authorised seller of poisons", may describe its premises as a "Pharmacy".

(8) With regard to the registrar of the Society:—

(i) That it be his duty—

(a) to alter the register so as to give effect to any decision of the "Statutory Committee" as to the removal of names from or the restoration of names to the register;

- (b) to make and keep corrected a register of all premises where the business of an "authorised seller of poisons" is being carried on by or under the conduct or superintendence of a registered pharmacist.
- (9) That it be the duty of the Society to enforce the provisions of Part I of the new Pharmacy and Poisons Act, and to secure compliance by registered pharmacists with Part II and the rules made under Part III of the said Act, and for this purpose the Society be empowered to appoint inspectors, who shall be pharmacists and shall possess powers to make their inspection effective, subject to the approval of the Privy Council as to the persons so appointed and their number.
- (10) That the Council of the Society determine the salary, etc., of the inspectors, subject to the approval of the Privy Council.
- (11) That, as from the appointed day, the Arsenic Act, 1851, and the provisions of the Pharmacy and Poisons and Pharmacy Acts relating to the sale, supply and distribution of poisons, shall cease to have effect, and in lieu thereof the provisions of the new Pharmacy and Poisons Act shall have effect.
- (12) That the appointed day be fixed by Order-in-Council, different days being appointed for different purposes and provisions of the Act.
- (13) That the Central Authority for Poisons be the Home Secretary, assisted by an Advisory Committee, to be called the "Poisons Board", whose constitution is described in the First Schedule to the Draft Bill, and whose functions shall be—
  - (i) to prepare and submit a "Poisons List" to the Secretary of State;
  - (ii) to consider or recommend any amendment or variation of the "Poisons List";
  - (iii) to assist the Secretary of State in making rules with respect to the sale, wholesale or retail, or the supply of poisons and various other matters relating to poisons.
- (14) That the "Poisons List" be divided into two Parts; Part I to include poisons which may not be sold retail except by "authorised sellers of poisons"; Part II to include poisons which may be sold retail only by the aforesaid persons or by persons entitled under clause 16 to sell poisons in Part II of the Poisons List.
- (15) That, wherever possible, generalisation be avoided in the "Poisons List", and the poisons therein individually and specifically defined.

(16) With regard to poisons in Part I of the Poisons List :—

(i) That power be given to prohibit by rule the sale by retail of such of these poisons as may be specified except on the prescription of a registered medical practitioner, dentist or veterinary surgeon;

(ii) That power be given to provide by rule for prescribing the form and regulating the use of prescriptions.

(17) With regard to the sale or supply of poisons in the "Poisons List" :—

(i) That the existing law be re-enacted, with the amendment that power be given to prescribe by rule some indication of character, other than "Poison", with which they may be labelled;

(ii) That, with regard to the sale of poisons in Part I of the "Poisons List" :—

(a) the purchaser must either be certified in writing or be known by the seller or by some registered pharmacist in the employment of the seller at the premises where the sale takes place to be a person to whom the poison may properly be sold;

(b) the seller must enter in a book, kept by him for the purpose, the name and address of the person giving the certificate;

(c) in other respects, the existing law be re-enacted, save the provision requiring the introduction of a purchaser, unknown to the seller, by a person known to the seller, who shall sign the poison book, which is repealed.

(iii) That a "registered dentist" and "registered veterinary surgeon" be included among the persons to whom special provisions as to supply and dispensing apply; and that such provisions be those set out in clause 14 (3) of the Draft Bill.

(18) That the provision as to "keeping open shop" be repealed.

(19) With regard to exemption from the provisions as to sale of poisons :—

(i) That, subject to the control of statutory rule, exemption be granted as set out in clause 15 of the Draft Bill;

(ii) That the exemption relating to "patent medicines" be repealed;

(iii) That sale of poisons by way of wholesale dealing be specifically exempted;

(iv) That "wholesale dealing" be defined as "sale to a person who buys for the purpose of selling again".

(20) With regard to the making of statutory rules :—

(i) That the power to make them be given to the Secretary of State in the terms of clause 17 of the Draft Bill; and

(ii) That, in particular, power be given to make rules with regard, *inter alia*, to the following matters :—

(a) the manufacture of pharmaceutical preparations containing poisons;

(b) dispensing with or relaxing, in the case of any poisons or class of poisons, any provision with respect to the sale of poisons;

(c) the storage, transport, labelling, compounding and dispensing of poisons;

(d) the certification in writing of a purchaser of a poison in Part I of the Poisons List as a person to whom the poison may properly be sold;

(e) the period for which books, required by the Act to be kept, must be preserved;

(f) the cases exempted from the provisions of the Act relating to sales of poison.

(21) That persons, other than "authorised sellers of poisons", having a place of business within the area of any Local Authority, may, on application in writing and on payment of a prescribed fee, have their names placed on a list, to be kept by the Local Authority; that the persons entered on the list shall be entitled to sell only poisons in Part II of the Poisons List and only in the premises mentioned in the list kept by the Local Authority; that fees be payable by such persons on alteration of the list in relation to premises on the list and annually for the retention of their names on the list; and that they be subject to inspection by the Local Authority.

(22) That, subject to a right of appeal—in England and Wales, to Quarter Sessions under rules made by the Secretary of State, and in Scotland, to the Sheriff—the application for registration may be refused or the name of any person be removed from the list by the Local Authority for any sufficient reason relating personally to the person concerned or to his premises.

(23) That the use by any such person of any title or description, reasonably calculated to suggest that he is entitled to sell any poison other than one in Part II of the Poisons List, should be punishable, on summary conviction, by a fine not exceeding £5; and that, if any person so registered be convicted before any Court of an offence against the Pharmacy Acts or any criminal offence, rendering him, in the opinion of the Court, unfit to have his name on the list, he may, as part of his sentence, have his name removed from the list and be disqualified for any specified period for having his name on any such list.

(24) That the civil recovery of penalties by the registrar of the Pharmaceutical Society for breaches of the Pharmacy and Poisons Acts or regulations thereunder be abolished, and that, in all cases, penalties up to maximum amounts (*vide* paragraph 16, *supra*) be recoverable by summary proceedings.

(25) That (except in Scotland, where prosecutions will be undertaken by Procurators Fiscal), in the case of proceedings taken by or by the direction of the Pharmaceutical Society for offences relating to (i) the use of professional titles by registered pharmacists, or (ii) the sale of poisons in Part II of the Poisons List under clause 16, the penalty shall be paid to the Pharmaceutical Society.

(26) That all orders and rules made by the Secretary of State shall be laid before each House of Parliament for 30 days, and may be rendered void by an address presented by either House to His Majesty praying for their annulment.

67. We desire to record our sincere appreciation of the great assistance which we have received from Mr. M. D. Perrins and Dr. E. W. Adams, O.B.E., M.D., the Joint Secretaries to the Committee, in the conduct of this inquiry.

Owing to the character of the inquiry, the great burden of work fell upon the shoulders of Mr. Perrins, who discharged his duties with an industry, efficiency and a knowledge of the subject-matter before us, which was of invaluable service.

We have the honour to be,

My Lord,

Your Lordship's Obedient Servants,

EDWARD A. MITCHELL INNES.

L. G. BROCK.

MALCOLM DELEVINGNE.

R. N. DUKE.

W. M. GRAHAM-HARRISON.

DONALD MACALISTER.

ERNEST T. NEATHERCOAT.

COLIN SMITH.

GEO. STUBBS.

W. H. WILLCOX.

ARTHUR E. YOUNG.\*

M. D. PERRINS,  
E. W. ADAMS,

Joint Secretaries.

14th January, 1930.

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\* Signed subject to the reservation annexed.

## RESERVATION BY MR. A. E. YOUNG.

I concur in the recommendations made in the above Report, which I have signed, subject to a reservation on the following point :—

I cannot agree with my colleagues that the formation of a new class of vendors of certain poisons such as is contemplated in clause 16 of the Draft Bill (Appendix III) is in any sense necessary or is in the public interest. The whole basis of pharmacy legislation from its beginning has been the recognition of the training of the pharmacist as the most suitable qualification for a person to be entrusted by the State with the distribution of poisons.

In an enquiry which preceded the passage of the Poisons and Pharmacy Act, 1908, it was urged that in certain sparsely populated areas, especially in Scotland, the remoteness of the nearest pharmacist constituted a hardship to the agriculturalist requiring poison for use in his industry. It was to meet this hardship that the Act of 1908 made provision for a class of licensed vendors of certain poisons. It is evident that the legislature at that time intended that such cases only should be dealt with in such a way, for the Act provides (clause 2 (2)) that a Local Authority shall take into consideration before granting a licence whether the reasonable requirements of the public with respect to the purchase of the poisonous substances are satisfied. In spite of this proviso, very many hundreds of licences have been granted in urban areas, even in close proximity to chemists' shops. The recommendations of my colleagues, if made law, will establish this practice, which I consider from the point of view of the public interest to be highly undesirable, since Local Authorities will have no right of refusal save upon the grounds of the personal character of the applicant or the unsuitability of his premises.

It is common knowledge that in many cases of the criminal use of poison, the poison in question has been in the form of, or has been prepared from, an agricultural or horticultural preparation. In my view, therefore, the public interest would be better served by further restrictions on the sale of agricultural and horticultural preparations containing poison rather than by extending the facilities for their sale. Whilst I agree that the use of poisons in industry is extending, I consider that adequate facilities for their supply will be secured by the provisions of clause 15 of the Draft Bill.

ARTHUR E. YOUNG.

14th January, 1930.

**MINORITY REPORT**  
BY  
**MR. F. W. GAMBLE.**

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To the Right Honourable THE LORD PARMOOR, K.C.V.O.,  
Lord President of the Council.

MY LORD,

1. I have the honour to submit the following Minority Report under the terms of reference in your predecessor's Minute of Appointment of the 17th July, 1926. I desire to acknowledge the courtesy with which my suggestions have been received and considered by my colleagues and I am glad to be able to associate myself with them in many of their recommendations, but I feel justified in placing on record my own opinion with regard to the following matters.

2. The sale and distribution of poisons are so intimately connected with the practice of pharmacy in this country that drastic changes, such as those recommended, ought not to be made without careful enquiries not only into the desirability of making such changes so far as the better control of the sale and distribution of poisons is concerned but also into the effect of these changes upon the practice of the profession of pharmacy as a whole.

3. Such an enquiry into the whole question, in which an endeavour should be made to define what is the proper function of the pharmacist and in what way his qualifications and training can be put to the service of the community, is long overdue and my main criticism of the Majority Report and Draft Bill is that it appears to stereotype the pharmacist as a mere "authorised vendor of poisons", thus to some extent pre-judging without full enquiry the important question to which I have referred.

4. With these considerations in my mind, I wrote to the Chairman the following letter dated the 12th October, 1926, after our first meeting :

" Dear Sir,

" It seems desirable that at the meeting of the Committee to be held on Friday next the question of the scope of this enquiry should be made clearer.

" I assume that the Lord President's letter means that the Committee is to consider 'the whole question of the scope and administration of the Poisons and Pharmacy Acts' and, in addition to that, the regulations made under these Acts so far as poisons other than Dangerous Drugs are concerned. If the interpretation is that the Committee is to consider these Acts *only as regards poisons other than Dangerous Drugs*, then I venture to say that the enquiry will be unsatisfactory and futile.

" In my opinion it is impossible to consider satisfactorily only the portions of these Acts that apply to poisons; the time is ripe, moreover, for the fullest enquiry to be made into the whole matter, and, in my view if there is any doubt, application should be made to the Lord President to extend the terms of reference.

Yours faithfully,".

5. The Committee's decision at the subsequent meeting to limit the enquiry to matters connected with poisons or immediately subsidiary thereto was, I think, unfortunate. Even if the Committee were not prepared to request an extension of their terms of reference so as to be in a position to make recommendations upon the broad question of the extent to which many of the scientific services ancillary to the practice of medicine might be performed by the members of a scientifically-trained pharmaceutical profession, I still think that even within the existing terms of reference the Committee should have been prepared to receive and consider evidence as to what in existing conditions should be the business of a pharmacist. I regret that this decision of the Committee has been held to prevent the consideration by the Committee of this and other questions which appear to me to be no more remote from the terms of reference than are such matters as the use of the title " Chemist ", the constitution of the Pharmaceutical Society and its Council and such matters upon which the Committee have not hesitated to make recommendations.

6. The report and Draft Bill avoid this fundamental question, " what is the business of a pharmacist? ". I do not think any legislation will be satisfactory which does not deal with this question. The pharmacist undergoes a long period of training and is specially educated and qualified by examination to prepare and dispense medicines. To ensure a high standard of efficiency, it is desirable on broad public grounds that the work for which a pharmacist is trained should be reserved to him. It is much to be regretted that the opportunity offered by this enquiry has not been utilised to extend to the general public the advantages of independent dispensing of medicines secured to the insured population by the National Health Insurance Act. I contend that the interests of medical science, as well as those of pharmacy, would be secured by such an extension. The principle of the National Health Insurance Act in this respect has worked well and is undoubtedly to the general advantage. That this view is shared by the Scottish Board of Health is clear from their precis of evidence although the evidence so tendered was rejected by the Committee on the ground that it was not within the scope of the Committee's terms of reference.

7. Whatever may be said as to the general question of the dispensing of medicine, I think it is clear that the dispensing of

medicines containing poisons is within the Committee's terms of reference, and I see no reason why the Committee should have refrained from considering this question merely because "a large preponderance of dispensed medicines contain poisons" (see paragraph 66). I should have thought that the greater the number of medicines which contain poisons the more important it was that we should consider the question and make recommendations thereon. So far as such medicines at least are concerned, I feel that an overwhelming case can be made out for the advantage of protecting the public by ensuring that a medicine containing poisons shall not, except in special cases, be dispensed by the person who prescribed it. It is, I think, wholly anomalous to apply stringent rules to the dispensing and storage of poisons in chemists' shops and to make no provision whatever to secure that the handling of poisons in hospital dispensaries or doctors' surgeries should be done by or under the supervision of qualified persons.

8. It is my view that it is unfair to the pharmacist to impose upon him the additional burdens created by this Bill without at the same time giving him some protection against the competition of unqualified persons who are free to carry on the business of selling drugs and medicines, not being poisons and medical and surgical appliances and even to dispense medicines which do not contain poisons upon doctors' prescriptions.

9. I cannot regard as satisfactory the constitution of the Poisons Board outlined in the Bill. The Poisons Board will perform a very onerous task; in addition to preparing the Poisons List in two parts it will have power to treat those poisons specially according to their characters. It will also assist the Secretary of State in making rules in regard to storage, transport, labelling, compounding and dispensing of poisons, etc., in other words the business of the trained, qualified chemist is to be regulated as regards poisons in many of its smallest details by a body consisting for the most part, it may be presumed, of members of the Civil Service and medical men. I suggest that not less than half the members of the Poisons Board should be registered Chemists by whomsoever appointed; also that if the Secretary of State takes the power to appoint additional members they should be people with a pharmaceutical qualification.

10. Moreover, the Secretary of State is given power to confirm or modify, amend or vary the recommendations of the Poisons Board as he thinks proper. He may "after consultation with, or on the recommendation of the Poisons Board" make rules for a great variety of purposes. By the phrase "the Secretary of State" is intended the Home Secretary to whom also the enforcement of that part of the Act relating to poisons and of such regulations as may be made thereunder is entrusted. I do not think this is a sound principle, I think its result is that in the framing of regulations too much weight is given to

convenience of administration and too little to the freedom of the subject. In any case, I think that no amendment of the List of Poisons and no regulation proposed to be made without the concurrence of the Poisons Board, should become law without the express sanction of Parliament.

11. Under the terms of reference the Committee was precluded from any consideration of the Dangerous Drugs Acts. Under this Bill the Poisons Board would have no status in regard to those Acts. Any consideration of the whole of this subject must, one would think, have led to the conclusion that a properly constituted Poisons Board was the body to take the general responsibility for the conditions regulating the sale and supply of poisons of all kinds. If such a Poisons Board had been in existence at the date when the Dangerous Drugs Act, 1920, was passed, it would surely have been proper that the Board should be consulted before such changes in the law as were required to carry out our obligations under the International Conventions affecting narcotic drugs were made.

12. As to the division of the Poisons List into two parts, I agree that obviously power must be given to place different restrictions upon the distribution of different classes of poisons, but I think that the Bill as drafted would result in the undue limitation of the poisons in Part I and the undue extension both in numbers and freedom of distribution of the poisons in Part II. As to the poisons in Part I, section 14 (2), of the Draft Bill appears to me to lay down the general principle that those poisons only should be placed in Part I which are so dangerous that as a general rule they ought not to be sold otherwise than to a person known to the seller and upon the signing of a Poison Book. In my view it is probable that a strong pressure would be brought to bear upon the Home Secretary and the Poisons Board by persons interested both as manufacturers and retailers in the sale of preparations containing poisons to apply this principle in the case of the particular articles in which they are interested. The Bill as drafted appears to me to support them. Instead of power being given to the Poisons Board to relax these rules in given cases, the rules should not be applied generally to articles in Part I but power should be given to the rule making authority to impose such conditions in particular cases.

13. As to Part II, this embraces poisons that may be sold by unqualified persons licensed by the Local Authority. The Act of 1908 confined these licences to certain classes of poisons. Under the present Bill the local authority will be bound to register every person who chooses to apply for a licence unless some valid reason, peculiar to him personally, exists for a refusal. This appears to me, for practical purposes, to limit the persons to whom a licence may be refused to those who are of bad character or of unsound mind. The number of licensed unqualified vendors of poisons would be almost unlimited and

to these people it is proposed to entrust the sale of large quantities of the most deadly and dangerous poisons including presumably substances such as preparations of arsenic and nicotine to say nothing of such articles as lysol or hydrochloric acid both of which are responsible for a large number of fatalities. The Act of 1908 broke down the public safeguard that had until then existed, arising from the skill and knowledge of the qualified man who alone sold poisons to the public. The Bill as now drawn makes it possible for a still more extensive loosing of poisons upon the public by unqualified people. One must assume that any person will be able still more freely to purchase sufficient arsenical weed-killer to exterminate a village but will be denied the smallest dose of heroin for a cough without a prescription.

14. I regret the absence from the Bill of any provision for the inspection of doctors' surgeries, hospital dispensaries and such places in which poisons are kept and dispensed. I have already referred to the anomaly that no provision is made against the dispensing of poisons in doctors' surgeries by unqualified persons.

15. I desire to associate myself with my colleagues in expressing appreciation of the services of the Joint Secretaries to the Committee.

I have the honour to be,

My Lord,

Your Lordship's obedient Servant,

F. W. GAMBLE.

14th January, 1930.

## APPENDIX I.

## EVIDENCE TAKEN BY THE COMMITTEE.

*List of Witnesses.*

<i>Name of Witness.</i>	<i>Representing.</i>
Mr. C. L. Claremont, B.Sc., F.I.C.	The Association of Manufacturers of Preparations for Pest Destruction.
Mr. G. McLaren.	
Dr. J. W. Bone, M.B., C.M., B.Sc.	The British Medical Association.
Mr. E. L. Lilley, M.B., B.S., F.R.C.S.	
Dr. Alfred Cox, O.B.E., M.B., B.S.	
Mr. J. H. King.	Messrs. James Carter and Co.
Mr. H. Roberts.	The Company Chemists Association, Ltd.
Mr. E. S. Waring.	
Sir Robert Greig, M.C., LL.D.	The Department of Agriculture for Scotland.
Dr. G. Matheson Cullen, M.D., C.M., B.Sc.	The Department of Health for Scotland.
Mr. C. A. Hill, B.Sc., F.I.C.	
Mr. H. W. Gadd.	The Drug Club.
Mr. Arthur J. Giles.	
Sir Nestor Tirard, M.D., F.R.C.P.	The Federation of Grocers Associations of the United Kingdom.
Mr. F. S. Law.	The General Medical Council.
Mr. J. J. McKenna.	
Mr. S. Fleming.	The Hairdressers National Parliamentary Committee.
Sir Ernley Blackwell, K.C.B. (Assistant (Legal) Under-Secretary of State).	The Home Office.
Mr. A. H. Anderson (Inspector appointed under the Dangerous Drugs Acts).	
Dr. G. C. Clayton, C.B.E., J.P., Ph.D.	The Institute of Chemistry of Great Britain and Ireland.
Mr. Richard B. Pilcher, O.B.E.	
Mr. W. Huntrods.	
Mr. Norman D. Vine.	The Incorporated Society of Pharmacy and Drug Store Proprietors.
Mr. G. Child.	
Mr. A. D. Hutchinson.	
Sir F. L. C. Floud, K.C.B.	The Ministry of Agriculture and Fisheries.
Dr. G. F. McCleary, M.D., D.P.H.	
Mr. R. H. Crooke.	The Ministry of Health.
Mr. J. Watmore.	
Mr. W. Jennings.	The National Association of Medical Herbalists of Great Britain, Ltd.
Mr. H. E. G. West.	Messrs. Newton Chambers and Co. Ltd.
Mr. P. F. Rowsell, J.P., F.C.S.	
Mr. I. Rutherford Hill, Ph.C.	The Council of the Pharmaceutical Society of Great Britain.
Mr. H. N. Linstead, Ph.C.	
Mr. F. E. Bilson, Ph.C.	

<i>Name of Witness.</i>	<i>Representing.</i>
Mr. W. S. Jarratt (Comptroller-General of Patents).	The Patent Office.
Mr. T. Beacall (Senior Examiner of Patents).	
Mr. Colin Smith, O.B.E.	The Privy Council Office.
Dr. John Fawcett, F.R.C.S., F.R.C.P.	The Royal College of Physicians.
Sir William Hale White, K.B.E., M.R.C.S., F.R.C.P.	
Mr. H. J. Martin, J.P.	The Retail Pharmacists Union.
Mr. G. A. Mallinson.	
Dr. Cecil Wall, M.A., M.D.	
Professor W. E. Dixon, M.A., M.D., F.R.S.	The Society of Apothecaries of London.
Dr. Hepburn.	
Mr. Bingham Watson.	
Professor H. R. Kenwood, C.M.G., M.B., F.R.S.E., D.P.H.	The Society of Medical Officers of Health.
Lt.-Col. T. R. Ubsdell, D.S.O.	
Sir William Glyn-Jones (ex-Registrar of the Pharmaceutical Society).	The Surrey County Council.

The Committee were also assisted by memoranda on various aspects of their enquiry supplied by:—

The British Association of Chemists.	(The title Chemist).
Mr. E. Bernard Cook (Managing director of Messrs. Johnson and Sons, Ltd., Fine Chemical Manufacturers).	(Poisons in the Photographic Industry).
The Federation of British Industries on behalf of:— The Brewers Society. The Mineral Water Manufacturers Association. The United Dairies, Ltd. The Union of Family Trade Brewers. The London Mineral Water Trade Association.	The misuse of bottles, intended to contain potable liquids, by their use as containers of poisonous liquids.
Mr. A. H. Jenkin (Hon. Sec. the Guild of Public Pharmacists).	The storage, etc., of poisons in hospitals.
Mr. F. S. Lowe (Messrs. Morris Little and Son).	Sheep dips.
The Animal Medicine Manufacturers Association.	Poisons in veterinary medicines.

## APPENDIX II.

## NOTE ON PRESENT PHARMACY AND POISONS LEGISLATION.

The statutes affecting the sale of poisons and the practice of pharmacy are:—

- The Arsenic Act, 1851 (14 Vict. Cap. 13).
- The Pharmacy Act, 1852 (15 & 16 Vict. Cap. 56).
- The Pharmacy Act, 1868 (31 & 32 Vict. Cap. 121).
- The Pharmacy Act, 1869 (32 & 33 Vict. Cap. 117).
- The Pharmacy Acts (Amendment) Act, 1898 (61 & 62 Vict. Cap. 25).
- The Poisons and Pharmacy Act, 1908 (8 Edw. VII. Cap. 55).
- The Dangerous Drugs and Poisons (Amendment) Act, 1923 (13 & 14 Geo. V. Cap. 5).

The operation of these statutes, with the exception of sections 2 and 5 of the Poisons and Pharmacy Act, 1908, is confined to Great Britain. Ireland has its separate Poisons and Pharmacy Laws; and by the Pharmacy and Poisons Act (Northern Ireland), 1925, the Pharmaceutical Society of Northern Ireland has been established and the law with respect to the sale of poisons amended and extended. The Isle of Man and the Channel Islands have also their separate enactments.

## THE ARSENIC ACT, 1851.

It is unnecessary to refer in detail to this Act, as it is to-day practically obsolete.

## THE PHARMACY ACT, 1852.

The most important feature of this statute is the prohibition, under penalty, of the use, by an unregistered person, of the titles Pharmaceutical Chemist, Pharmaceutist, or any title implying either registration under its provisions, or membership of the Pharmaceutical Society. It confirms, with modifications, the Royal Charter of the Pharmaceutical Society and constitutes that Society the examining body under the Act.

## THE PHARMACY ACT, 1868.

This Act is the most important of those governing the Law of Pharmacy, for, by virtue of its provisions, it became an offence for any person not registered as a Pharmaceutical Chemist or Chemist and Druggist (a) to sell or keep open shop for the retailing, dispensing or compounding of certain substances, which were scheduled by the Act as "poisons"; (b) to use the titles Chemist and Druggist or Chemist or Druggist or Pharmacist or Dispensing Chemist or Druggist. It visits with penalties the failure by any person registered under the Act to observe such regulations as to the keeping, dispensing and selling of such poisons as may from time to time be prescribed by the Pharmaceutical Society with the consent of the Privy Council. It enacts (section 2) a Schedule of Poisons, lays down the procedure by which articles may be made Poisons within the meaning of the Act, and deals with (section 17) the labelling and the recording of the sale of poisons, penalties being imposed for breaches of that section. The Pharmaceutical Society is constituted by this Act the sole examining and registering authority, with the exclusive right—in England—to sue for the penalties for breaches of its sections 1 and 15.

## THE PHARMACY ACT, 1869.

## THE PHARMACY ACTS (AMENDMENT) ACT, 1898.

These statutes require only a passing mention. The first exempts certain classes of persons from the penal clauses of the Pharmacy Act, 1868; while the second amends in certain respects the constitution of the Pharmaceutical Society.

**THE POISONS AND PHARMACY ACT, 1908.**

This statute enables its "Schedule of Poisons" which is substituted for Schedule A to the Pharmacy Act, 1868, to be amended by adding thereto or removing therefrom any article or by transferring any article from one part of the Schedule to another in the manner provided by the Pharmacy Act, 1868. Further, by section 2 it empowers Local Authorities to grant to persons, other than registered chemists, Licences to sell the "poisonous substances" therein referred to for use in connection with agriculture and horticulture. Section 5 legalises the sale of certain poisonous substances, other than scheduled poisons, provided they are labelled as required by that section and are sold under such regulations as may be made by Order in Council.

**DANGEROUS DRUGS AND POISONS (AMENDMENT) ACT, 1923.**

The importance of this statute, so far as the Pharmacy Acts are concerned, consists in its amendments of the Pharmacy Act, 1868. After creating certain exceptions as regards the sale of poisons in favour of registered medical practitioners, registered dentists, and registered veterinary surgeons, it strengthens the law with regard to the labelling of poisons by providing that the label must, in future, bear the word "poison", state the name of the poison, and, where the poison is only one of the ingredients of a preparation, give such particulars of the proportion it bears to the other ingredients as may be prescribed by Order in Council.

## APPENDIX III.

## DRAFT OF A PHARMACY AND POISONS BILL.

## ARRANGEMENT OF CLAUSES.

## PART I.

## PHARMACY.

## Clause.

1. Membership of Pharmaceutical Society.
2. Nomination by Privy Council of additional members of Council of Society.
3. Duty of authorised sellers of poisons to register business premises.
4. Byelaws of Society not to require confirmation by general meeting.
5. Restriction of use of certain titles, etc.
6. Removal of pharmacists from register.
7. Restoration to register.
8. Carrying on of business by bodies corporate.
9. Continuation of business of deceased pharmacist by his representative.
10. Provisions as to directions given by Statutory Committee and as to appeals to High Court.

## PART II.

## POISONS.

11. New provisions to be substituted for existing provisions as to sale of poisons.
12. Constitution of Advisory Committee.
13. Preparation of list of poisons for purposes of Act.
14. Prohibitions and regulations with respect to sale of poisons.
15. Exemption with respect to sales wholesale and sales to certain persons.
16. Certain persons other than authorised sellers of poisons to be entitled to sell poisons in Part II of Poisons List.

## PART III.

## MISCELLANEOUS.

17. Power of Secretary of State to make rules.
18. Penalties.
19. Inspection and enforcement of Act.
20. Expenses of Local Authorities.
21. Orders and rules to be laid before Parliament.
22. Interpretation.
23. Application to Scotland.
24. Short title, citation, repeal, commencement and extent.

## SCHEDULES.

First Schedule.—Constitution of Poisons Board.  
Second Schedule.—Enactments repealed.

**DRAFT OF A BILL TO AMEND THE LAW RELATING TO  
PHARMACY AND POISONS.**

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART I.**

**PHARMACY.**

**Membership  
of Pharma-  
ceutical  
Society.**

1.—(1) Every person registered as a pharmacist, shall, by virtue of being so registered, be a member of the Pharmaceutical Society of Great Britain (in this Act referred to as "the Society"), and the provisions of the Pharmacy Acts and of the Charter of Incorporation of the Society so far as they provide that persons shall become members of the Society by election shall cease to have effect.

(2) Every member of the Society shall, in addition to the fees payable on registration as a pharmacist, pay such fee as may be prescribed by the byelaws of the Society, but not exceeding two pounds, in respect of the retention of his name on the register in any year subsequent to the year in which he first becomes a member of the Society, or, in the case of a person who was a member of the Society immediately before the commencement of this Act, subsequent to the year in which this Act comes into operation.

Different fees may be prescribed under this subsection as regards different classes of members of the Society, and provision may be made by the byelaws of the Society for exempting any class of the said members from liability to pay a fee under this subsection.

(3) If any person, within one month after the date on which payment has been demanded by the Society in such manner as may be prescribed by the byelaws of the Society, fails to pay any retention fee payable by him, the Council may strike his name off the register, but, if either within the year in respect of which the fee is payable or within such longer period as the Council may allow, any person whose name has been so struck off pays to the Society the retention fee, together with such additional sum, if any, by way of penalty for the default, as may be prescribed by the byelaws of the Society, his name shall be restored to the register, and, if the Council so direct, the restoration shall have effect as from the date on which he was struck off.

(4) Any person shall, upon ceasing to be registered as a pharmacist, cease to be a member of the Society.

(5) The register of members of the Society and associates and apprentices or students directed to be kept by section five of the Pharmacy Act, 1852, shall, except in so far as the Council otherwise order, cease to be kept, and so much of the Pharmacy Acts as relates to the keeping of the said register and to the granting by the registrar of certificates of inclusion therein, or of membership of the Society, shall cease to have effect.

(6) In this section and in section 3 of this Act the expression "year" means a period of twelve months beginning on such date as the Council may from time to time determine.

**Nomination  
by Privy  
Council of  
additional  
members of  
Council of  
Society.**

2.—(1) The Privy Council may nominate three persons to be members of the Council of the Society in addition to the persons appointed as members of the Council under the said Charter of Incorporation, and the persons so nominated by the Privy Council shall hold office as members of the Council for such time as the Privy Council may determine.

(2) A person shall be qualified for nomination under this section as a member of the Council whether he is or is not a member of the Society.

3.—(1) Every person who owns a business comprising the retail sale of drugs shall, if he is an authorised seller of poisons, cause the premises where the business is being carried on to be registered under this section.

(2) An application for registration under this section shall be made in such manner as may be prescribed by byelaws made by the Society, and it shall be the duty of the registrar to keep, in accordance with the provisions of byelaws so made, a register for the purposes of this section (in this Act referred to as "the register of premises") and on payment of such fee as may be so prescribed to enter therein all premises in respect of which an application for registration is duly made.

(3) Where any premises which are required to be registered under this section are not duly registered, it shall not be lawful (notwithstanding anything in this Act) for any poison to be sold on the premises, and if any poison is sold in contravention of this subsection the owner of the business shall be deemed to have acted in contravention of Part II of this Act.

(4) On the first application for registration under this Act, there shall be payable such fee, not exceeding three pounds, as may be prescribed by the byelaws of the Society, and the owner of the business carried on in any premises entered in the register shall pay a fee of the same amount in respect of the retention of the premises on the register of premises in any year subsequent to the year in which he first caused the premises to be registered under this section.

(5) If any person, within one month after the date on which payment has been demanded by the Society in such manner as may be prescribed by the byelaws of the Society, fails to pay any retention fee payable by him under this section, the Council may strike the premises off the register of premises, but if either within the year in respect of which the fee is payable or within such longer period as the Council may allow, the owner of the business carried on in the premises pays to the Society the retention fee, together with such additional sum, if any, by way of penalty for the default, as may be prescribed by the byelaws of the Society, the premises shall be restored to the register, and, if the Council so direct, the restoration shall have effect as from the date on which the premises were struck off.

(6) The registration of any premises under this section shall become void on any change in the ownership of the business carried on therein.

4. Section two of the Pharmacy Act, 1852, shall cease to have effect so far as it requires byelaws of the Society to be confirmed and approved by a special general meeting of the Society.

Duty of authorised sellers of poisons to register business premises.

5.—(1) It shall not be lawful for any person unless he is registered as a pharmaceutical chemist to take or use the title of pharmaceutical chemist or pharmaceutist, or for any person unless he is registered as a pharmacist to take or use the name or title of chemist and druggist, or of druggist or of pharmacist, or to take or use in connection with the sale of goods by retail the name or title of chemist.

Byelaws of Society not to require confirmation by general meeting. 15 & 16 Vict. c. 56.

Restriction of use of certain titles &c.

(2) It shall not be lawful for any person to take or use or affix to or use in connection with his premises any title or description reasonably calculated to suggest that he or anyone employed in the business carried on in the premises possesses any qualification with respect to the selling,

dispensing or compounding of drugs or poisons other than the qualification which he in fact possesses.

(3) If any person acts in contravention of the foregoing provisions of this section he shall be liable on summary conviction to a penalty not exceeding twenty pounds, and to a further penalty of five pounds for every day during which the offence continues.

(4) Any penalty recovered in proceedings instituted under this section by, or by the direction of the Society shall, notwithstanding anything contained in any public or other Act, be paid to the Society.

(5) A registered pharmacist carrying on a business which comprises the retail sale of drugs shall be an authorised seller of poisons within the meaning of this Act if the following conditions are complied with—

(a) in each set of premises where the business is carried on the business must be bona fide conducted by the pharmacist himself or some other registered pharmacist; and

(b) the name and certificate of registration of the person by whom the business is so conducted in any premises must be conspicuously exhibited in those premises.

Removal of  
pharmacist  
from register.

6.—(1) The Committee to be appointed under this section (in this Act referred to as "the Statutory Committee") may, after making inquiry into the case in accordance with the byelaws of the Society, direct the registrar to remove from the register the name of any pharmacist who—

(a) has been convicted of an offence against the Pharmacy Acts; or

(b) has been convicted of any other criminal offence, or been guilty of any misconduct, which, in the opinion of the Statutory Committee, renders him unfit to be on the register.

(2) The Statutory Committee shall cause notice of any direction given by them under this section to be sent to the person to whom it relates by registered letter addressed to him at his address in the register.

(3) The power of the Council of the Society to remove members from the Society and the power of the Privy Council to direct the removal of names from the register shall cease, but nothing in this section shall affect the provisions of sections ten, eleven and twelve of the Pharmacy Act, 1868, with respect to the erasure from the register of names and entries in the cases to which those sections respectively relate.

(4) The Statutory Committee shall consist of five members, of whom one, who shall be a person having practical legal experience, shall be appointed by the Privy Council, and of whom four shall be persons elected by the Council of the Society.

The member appointed by the Privy Council shall be the chairman of the Statutory Committee, and a person may be appointed a member of the Committee whether he is or is not a member of the Society or of the Council of the Society.

Restoration  
to register.

7.—(1) If the Statutory Committee think fit in any case so to do, they may, either of their own motion or on the application of the person concerned, direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as may be fixed by the byelaws of the Society:

Provided that, where an appeal to the High Court against the removal of any name from the register has not been allowed by the High Court, a direction under this section in respect of that name shall be of no effect unless approved by the Privy Council.

(2) Any person aggrieved by the refusal of an application for the restoration to the register of a name or entry may, within a period of three months from the date on which notice of the refusal is given to him, appeal against the refusal to the High Court.

**8.—(1)** Subject to the provisions of this section, a body corporate carrying on a business which comprises the retail sale of drugs shall be an authorised seller of poisons within the meaning of this Act if the following conditions are complied with:—

Carrying on  
of business by  
bodies  
corporate.

(a) the business of the body corporate must, so far as it relates to the keeping, retailing, dispensing and compounding of poisons, be under the control and management of a superintendent who is a registered pharmacist, whose name has been forwarded to the registrar to be entered by him in a register to be kept for that purpose, and who does not act at the time in a similar capacity for any other body corporate; and

(b) in each set of premises where the business is carried on, it must, if not personally conducted by the superintendent, be *bonâ fide* conducted under the direction of the superintendent by a manager or assistant who is a registered pharmacist; and

(c) where the business is personally conducted in any premises by the superintendent, his certificate of registration must be conspicuously exhibited in those premises, and, where the business is conducted in any premises by a manager or assistant, his certificate of registration must be conspicuously exhibited in those premises.

(2) Notwithstanding anything in section five of this Act a body corporate which is an authorised seller of poisons may, if the superintendent is a member of the board of directors or other governing body of the body corporate, use the description of chemist and druggist, or of chemist, or of druggist, or of dispensing chemist or dispensing druggist, and the premises on which the business is carried on may be described as a pharmacy.

**(3) If :—**

(a) a body corporate which is an authorised seller of poisons has been convicted of an offence against the Pharmacy Acts; or

(b) any director or officer of or other person in the employment of that body—

(i) has been convicted of an offence against the Pharmacy Acts; or

(ii) has been convicted of any other criminal offence, or been guilty of any misconduct, which, in the opinion of the Statutory Committee, renders him, or would if he were a registered pharmacist render him, unfit to be on the register,

the Statutory Committee may inquire into the case in accordance with the byelaws of the Society and may, unless the body corporate satisfies them that the act or omission in question was not instigated or connived at by their superintendent or by any of their directors or other officers, direct:—

(i) that the body corporate shall cease to be an authorised seller of poisons and shall cease to be entitled to use any title or description which a body corporate being an authorised seller of poisons is entitled to use;

(ii) that any or all of the premises of the body corporate shall be removed from the register of premises and be disqualified, for such period as may be specified in the direction, from being registered therein.

(4) The Statutory Committee shall cause notice of any direction given by them under this section to be served on the body corporate to which it relates.

**9.—(1)** Subject to the provisions of this section, if a registered pharmacist dies while carrying on a business which comprises the retail sale of drugs, any executor, administrator or trustee of his estate who carries on the business after his death in accordance with the conditions hereinafter mentioned shall during the period mentioned in Sub-section (2) of this section, be an authorised seller of poisons within the meaning

Continuation  
of business  
of deceased  
pharmacist  
by his re-  
presentative.

of this Act and be entitled to use in connection with the business such titles and descriptions as might have been used by the deceased pharmacist.

The said conditions are as follows, that is to say:—

(a) in each set of premises where the business is carried on, the business must be *bonâ fide* conducted by a registered pharmacist; and

(b) the name and certificate of registration of the person by whom the business is so conducted in any premises must be conspicuously exhibited in those premises.

(2) The period during which an executor, administrator or trustee shall be entitled as aforesaid shall be a period not exceeding five years from the date of the death of deceased pharmacist or such longer period as, on the application of the executor, administrator or trustee the statutory committee may, having regard to all the circumstances of the case, think fit to direct.

(3) If any such executor, administrator or trustee or any person in his employment:—

(a) has been convicted of an offence against the Pharmacy Acts; or

(b) has been convicted of any other criminal offence, or been guilty of any misconduct, which, in the opinion of the Statutory Committee, renders him, or would if he were a registered pharmacist render him, unfit to be on the register;

the Statutory Committee may inquire into the case in accordance with the byelaws of the Society, and may, unless in the case of an act or omission by a person in his employment the executor, administrator or trustee satisfies them that the act or omission in question was not connived at or instigated by him, direct that he shall cease to be an authorised seller of poisons and cease to be entitled to use in connection with the business the titles and descriptions which might have been used by the deceased pharmacist.

(4) The Statutory Committee shall cause notice of any direction given by them under this section to be sent to the executor, administrator or trustee by registered letter addressed to him at any one of the premises where the business of the deceased pharmacist is being carried on.

**10.**—(1) A direction given by the Statutory Committee under this Part of this Act shall not take effect until the expiration of a period of three months from the date on which notice thereof is duly given to or served on the person to whom it relates, or, in a case where there is an appeal against the direction, until the appeal is determined or withdrawn.

(2) Any person aggrieved by any such direction may, at any time within three months from the date on which notice of the direction is given to or served on him, appeal against the direction to the High Court.

(3) On an appeal under this Part of this Act the High Court may give such directions in the matter as they think proper, including directions as to the cost of the appeal, and the order of the High Court shall be final and not subject to appeal to any other court.

(4) Where a direction has been given by the Statutory Committee under this Part of this Act with respect to a pharmacist or an order has been made by the High Court under this Part of this Act on an appeal against any such direction, it shall be the duty of the registrar to make such alterations in the register as are necessary to give effect to the direction or order, and where such a direction has been given with respect to any premises in which a body corporate is carrying on business, the registrar shall strike the premises off the register of premises.

## PART II.

## POISONS.

**11.** As from the appointed day the provisions of the Arsenic Act, 1851, and the provisions of the Pharmacy Acts relating to the sale and supply of poisons and poisonous substances shall cease to have effect, and in lieu thereof the following provisions of this Part of this Act shall have effect.

New provisions to be substituted for existing provisions as to sale of poisons.

**12.—(1)** For the purposes of this Act, there shall be an Advisory Committee, which shall be called, and is in this Act referred to as, "the Poisons Board".

Constitution of Advisory Committee.

(2) The Poisons Board shall be constituted in manner provided by the First Schedule to this Act.

(3) The procedure of the Poisons Board shall (subject to any regulations made by the Board with the approval of the Secretary of State) be such as the Board may determine.

**13.—(1)** The Secretary of State shall as soon as may be after the passing of this Act cause the Poisons Board to prepare and submit to him for his approval a list of the substances which are to be treated as poisons for the purposes of this Act.

Preparation of list of poisons for purposes of Act.

(2) The list to be prepared under this section shall be divided into two parts as follows:—

Part I of the list shall consist of those poisons which, subject to the provisions of this Part of this Act, are not to be sold except by a person who is an authorised seller of poisons, and

Part II of the list shall consist of those poisons which, subject to the provisions of this Part of this Act, are not to be sold except by persons entitled to sell poisons included in the said Part I or by persons entitled by virtue of section sixteen of this Act to sell poisons included in the said Part II.

(3) The Secretary of State shall forthwith take into consideration the list submitted to him by the Poisons Board; and may by order confirm it with or without modifications, as he thinks proper.

(4) The Secretary of State may from time to time, after consultation with or on the recommendation of the Poisons Board, by order amend or vary the said list as he thinks proper.

(5) The said list as confirmed, or as amended or varied from time to time, as the case may be, in pursuance of this section, shall have effect as if enacted in this Act.

(6) The said list as in force for the time being is in this Act referred to as "the Poisons List".

**14.—(1)** Subject to the provisions of this Part of this Act, it shall be unlawful—

Prohibitions and regulations with respect to sale of poisons.

(a) for any person to sell any poison included in Part I of the Poisons List unless—

(i) that person is an authorised seller of poisons; and  
(ii) the sale of the poison is effected by, or under the supervision of, a registered pharmacist;

(b) for any person to sell any poison included in Part II of the Poisons List, unless that person is either a person who is an authorised seller of poisons or a person who is by virtue of section sixteen of this Act entitled to sell poisons included in Part II of the Poisons List, and unless, in the case of a person entitled by virtue of the said section, the sale is effected in the premises specified in the list kept under the said section as premises in which that person is entitled to sell such poisons;

(c) for any person to sell any poison unless the container of the poison is labelled in the prescribed manner—

- (i) with the name of the poison; and
- (ii) in the case of a preparation which contains a poison as one of the ingredients thereof, with such particulars as to the proportion which the poison contained in the preparation bears to the total ingredients as may be prescribed; and
- (iii) with the word “poison” or other prescribed indication of the character of the article; and
- (iv) with the name and address of the seller of the poison.

(2) Subject to the provisions of this Part of this Act—

(a) it shall be unlawful to sell any poison included in Part I of the Poisons List to any person unless he is either—

- (i) certified in writing in the prescribed manner and by a person authorised by rules under this Act to give a certificate for the purposes of this section; or
- (ii) known by the seller or by some registered pharmacist in the employment of a seller at the premises where the sale takes place, to be a person to whom the poison may properly be sold;

(b) the seller of any such poison shall not deliver it until—

- (i) he has made or caused to be made an entry in a book to be kept for that purpose stating, in the prescribed form, the date of the sale, the name and address of the purchaser and of the person, if any, by whom the certificate required under paragraph (a) of this subsection was given, the name and quantity of the article sold, and the purposes for which it is stated by the purchaser to be required; and

(ii) the purchaser has affixed his signature to the entry aforesaid.

(3) Nothing in this section shall apply—

(a) to a medicine which is supplied by a duly qualified medical practitioner for the purposes of medical treatment, by a registered dentist for the purposes of dental treatment or by a registered veterinary surgeon for the purposes of animal treatment;

(b) to a medicine which is dispensed by a person who is an authorised seller of poisons; or

(c) to a poison forming part of the ingredients of a medicine which is supplied by a person who is an authorised seller of poisons;

so long as—

(i) the medicine is distinctly labelled with the name and address of the person by whom it is supplied or dispensed; and

(ii) the following particulars are entered in a book to be kept for the purpose by the person supplying or dispensing the medicine—

(a) the date on which the medicine was supplied or dispensed;

(b) the ingredients of the medicine;

(c) if the medicine was dispensed, the name or initials and, if it is known, the address of the person by whom, and the name and, if it is known, the address of the person to whom, and the date on which, the prescription was given;

(d) if the medicine was not dispensed, the name of the person to whom it was supplied; and

(iii) in the case of a medicine supplied or dispensed by a person who is an authorised seller of poisons—

(a) if the medicine is compounded by the person supplying or dispensing it or by a person in his employment, it has been compounded by or under the direct supervision of a registered pharmacist;

(b) the supply of the medicine is effected by or under the direct supervision of a registered pharmacist:

Provided that the provisions of paragraph (ii) of this subsection shall not apply in any case where medicine is supplied on and in accordance with a written prescription given by a duly qualified medical practitioner under and in accordance with the provisions of the Acts relating to national health insurance.

(4) For the purposes of this Act, if the sale or supply of a poison is effected by an employee on behalf of his employer, the poison shall be deemed to have been sold or supplied by the employer.

**15.** Except as provided by rules under this Act, nothing in the foregoing provisions of this Part of this Act shall extend to or interfere with—

Exemption with respect to sales wholesale and sales to certain persons.

(1) the sale of poisons by way of wholesale dealing; or  
 (2) the sale of poisons to be exported to purchasers outside the United Kingdom; or

(3) the sale of an article for use in or in connection with any hospital, infirmary, dispensary or similar institution approved by an order, whether general or special, of the Secretary of State; or

(4) the sale of an article to—

(a) a person who requires the article—

(i) for the purpose of his trade, business or profession; or  
 (ii) for the purpose of enabling him to comply with any requirements made by or in pursuance of any enactment with respect to the medical treatment of persons employed by that person in any trade or business carried on by him; or

(b) a Government department or officer, or local authority, requiring the article in connection with the exercise by the department, officer or authority of any statutory powers; or

(c) a person or institution engaged in scientific education or research if the article is required for the purposes of that education or research.

**16.—(1)** Every local authority shall keep for the purposes of this Part of this Act a list of persons who, not being entitled to sell poisons included in Part I of the Poisons List, are entitled to sell poisons included in Part II of the Poisons List, and shall, subject to the provisions of this Part of this Act, enter in the list the name of any person who, having a place of business in the area of the authority, applies to have his name entered in the list as a seller of such poisons:

Certain persons other than authorised sellers of poisons to be entitled to sell poisons in Part II of Poisons List.

Provided that the local authority may refuse to enter in or may remove from the list the name of any person who in the opinion of the authority ought not, for any sufficient reason relating either to him personally or to his premises, to be on the list.

(2) If any person is aggrieved by the refusal of the local authority to enter his name in the said list or by the removal of his name therefrom under this section, he may, in accordance with rules made by the Secretary of State, appeal against the refusal or removal to the court of quarter sessions for the county or borough in which his place of business is situate.

(3) Every list kept under this section shall include particulars of the premises in which the person whose name is entered in the list is entitled to sell the said poisons, and subject as aforesaid the said list shall be in the prescribed form.

(4) Every person desiring to have his name entered in the list kept under this section shall make an application in writing in the prescribed form to the local authority.

(5) Every person shall pay to the local authority the prescribed fees in respect of—

(a) the entry of his name in the list; and  
 (b) the making of any alteration in the list in relation to the premises at which he is entitled to sell; and

(c) the retention of his name on the list in any year subsequent to the year in which his name is first entered in the list.

(6) If any person whose name is on the said list is convicted before any court of an offence against the Pharmacy Acts or of any criminal offence which, in the opinion of the court, renders him unfit to have his name on the list, the court may, as part of the sentence, order his name to be removed from the list and direct that he shall, for such period as may be specified in the order, be disqualified for having his name on any list kept under this section.

(7) In this section—

The expression "local authority" means as respects a county the council of the county and as respects a county borough the council of the borough:

The expression "relating to him personally" means, in the case of a person who is a body corporate, relating to the personal characteristics of the directors, managers or other officers of, or the persons controlling, the body corporate:

The expression "year" means a period of twelve months beginning on such date as the local authority may from time to time determine.

(8) It shall not be lawful for any person whose name is entered in a list kept under this section to take, or use, or affix to, or use in connection with his premises any title or description reasonably calculated to suggest that he is entitled to sell any poison other than a poison contained in Part II of the Poisons List, and if any person acts in contravention of this subsection he shall, in respect of each offence, be liable on summary conviction to a penalty not exceeding five pounds.

### PART III.

#### MISCELLANEOUS.

Power of  
Secretary of  
State to make  
rules.

17. The Secretary of State may, after consultation with or on the recommendation of the Poisons Board, make rules with respect to the manufacture of pharmaceutical preparations containing poisons or the sale, whether wholesale or retail, or the supply of poisons, by or to any persons or classes of persons (including persons entitled to sell poisons included in Part II of the Poisons List by virtue of their names being on a list kept under the last preceding section), and for prescribing anything which under this Act is to be prescribed and, without prejudice to the generality of the foregoing power, provision may be made by any such rules—

(a) for prohibiting the sale by retail of any poisons (being poisons included in Part I of the Poisons List) except on a prescription duly given by a duly qualified medical practitioner, registered dentist or registered veterinary surgeon, and for prescribing the form and regulating the use of prescriptions given for the purpose of rules made under this paragraph;

(b) for dispensing with or relaxing in the case of any poisons or any class of poisons any of the provisions imposed by Part II of this Act with respect to the sale of poisons;

(c) for regulating any of the following matters—

- (i) the storage, the transport and the labelling of poisons;
- (ii) the containers in which poisons may be sold or supplied;
- (iii) the compounding and dispensing of poisons;
- (iv) the period for which any books required to be kept for the purposes of Part II of this Act are to be preserved;

(v) the period for which any certificate given under Part II of this Act is to remain in force;

(d) for requiring persons in control of the manufacture of pharmaceutical preparations containing poisons to be registered pharmacists or persons possessing the prescribed qualification in chemistry.

**18.—(1)** Any person who acts in contravention of or fails to comply with Part II of this Act or any rules made under this Part of this Act shall, on summary conviction, be liable in respect of each offence to a penalty not exceeding fifty pounds.

Penalties.

(2) In the case of proceedings against any person under this section for or in connection with the sale or supply of a poison effected by an employee—

(a) it shall not be a defence that the employee acted without the authority or against the orders of the employer; and

(b) any material fact known to the employee shall be deemed to have been known to the employer.

(3) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within twelve months after the commission of the offence or, in the case of proceedings instituted by, or by the direction of, the Secretary of State, within three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, whichever period is the longer.

For the purposes of this subsection, a certificate, purporting to be signed by the Secretary of State, as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

(4) Any penalty recovered in proceedings instituted under this section by, or by the direction of, the Society shall, notwithstanding anything contained in any public or other Act, be paid to the Society.

**19.—(1)** It shall be the duty of the Society, by means of inspection and otherwise, to take all reasonable steps to enforce the provisions of Part I of this Act and to secure compliance by registered pharmacists with the provisions of Part II of this Act, and of the rules made under this Part of this Act, and the Society shall for that purpose appoint such number of inspectors as the Privy Council may direct.

Inspection and enforcement of Act.

(2) A person shall not be qualified for appointment by the Society as inspector under this section unless he is a registered pharmacist, and every such appointment shall be subject to the approval of the Privy Council.

(3) A person appointed by the Society as inspector under this section shall hold his office subject to such conditions with respect to salary and otherwise as the Council of the Society may with the approval of the Privy Council determine.

(4) An inspector appointed by the Society under this section shall, for the purpose of enforcing the provisions of Part I of this Act and for securing compliance by registered pharmacists with the provisions of Part II of this Act, and of the rules made under this Part of this Act have power at all reasonable times to enter any premises which are on the register of premises and shall, for the purpose of preventing the sale of poisons included in Part I of the Poisons List by persons other than authorised sellers of poisons, have power to enter any premises in which he has reasonable cause to suspect that a breach of the law has been committed in respect of the sale of any such poisons, and in either case shall have power to make such examination and inquiry and to do such other things (including the taking, on payment therefor, of samples) as may be necessary for ascertaining whether the provisions aforesaid are being complied with.

(5) It shall be the duty of every local authority to make adequate arrangements for the inspection, either by persons appointed by the authority to act as inspectors for the purposes of this subsection, or by persons who are inspectors appointed by the Society under this section, of the premises of persons entitled to sell poisons included in Part II of

the Poisons List by virtue of section sixteen of this Act, and any inspector so appointed shall, for the purpose of enforcing compliance by such persons as aforesaid with the provisions of Part II of this Act and the rules made under this Part of this Act have power at all reasonable times to enter any premises where any such person carries on business, and to make such examination and inquiry and do such other things as may be necessary for the purpose aforesaid.

(6) If any person wilfully delays or obstructs an inspector in the exercise of any powers under this section, or refuses to allow any sample to be taken in accordance with the provisions of this Act, or fails to give any information which he is duly required under this section to give, he shall be liable on summary conviction to a penalty not exceeding five pounds.

Orders and  
rules to be laid  
before  
Parliament.

Expenses of  
Local  
Authorities.

Interpreta-  
tion.

44 & 45 Vict.  
c. 62.

Application  
to Scotland.

**20.** All orders and rules made by the Secretary of State under this Act shall be laid before each House of Parliament as soon as may be after they are made, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent thirty days, praying that the order or rule may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new order or rule.

**21.** Any expenses incurred by a local authority under this Act shall be defrayed, in the case of the council of a county, as general county expenses, and, in the case of the council of a county borough, out of the general rate fund.

**22.** In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Authorised seller of poisons” means any of the persons declared by section five, section eight and section nine respectively of this Act to be authorised sellers of poisons within the meaning of this Act:

“Dispense” means the supplying of a poison on and in accordance with a prescription duly given by a duly qualified medical practitioner, a registered dentist or a registered veterinary surgeon:

“Pharmacist” means a pharmaceutical chemist or a chemist and druggist:

“Pharmacy Acts” means the Pharmacy Act, 1852, the Pharmacy Act, 1868, the Pharmacy Acts (Amendment) Act, 1908, sections three and four, and, so far as it relates to poisons, section five of the Dangerous Drugs and Poisons (Amendment) Act, 1923, and this Act, and a reference to this Act includes a reference to rules made under Part III thereof:

“Prescribed” means prescribed by rules made under this Act:

“Register” means the register of pharmaceutical chemists or the register of chemists and druggists, and “registered” in relation to a pharmacist means duly registered in the register:

“Registered” in relation to a veterinary surgeon means registered in pursuance of the Veterinary Surgeons Act, 1881, either in the register of veterinary surgeons or in the register of existing practitioners:

“Registrar” means the registrar appointed under section four of the Pharmacy Act, 1852:

“Sale by way of wholesale dealing” means sale to a person who buys for the purpose of selling again.

**23.** This Act in its application to Scotland shall be subject to the following modifications:—

(a) references to the High Court shall be construed as references to the Court of Session;

(b) proceedings for recovery of any penalty under this Act shall be at the instance of the procurator fiscal, and references to proceedings taken by, or by the direction of, the Society shall not apply;

(c) references to a body corporate shall be deemed to include references to a firm;

(d) the expression "local authority," in section sixteen shall mean, as respects a county, the council of the county, and as respects a large burgh within the meaning of the Local Government (Scotland) Act, 1929, the town council, and all other burghs shall for the purposes of the said section be deemed to be within the county;

(e) Any expenses incurred by a county or town council under this Act shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the council may determine;

(f) the expression "court of quarter sessions" in section sixteen shall mean the sheriff, and the reference in that section to rules made by the Secretary of State shall not apply;

(g) references in section eighteen to the Secretary of State shall be construed as references to the Lord Advocate.

**24.**—(1) This Act may be cited as the Pharmacy and Poisons Act, 1930, and the Pharmacy Acts, and this Act may be cited together as the Pharmacy and Poisons Acts, 1852 to 1930.

Short title,  
citation,  
repeal,  
commencement  
and extent.

(2) This Act shall come into operation on the appointed day, and the appointed day shall be such day as His Majesty may by Order in Council appoint, and different days may be appointed for different purposes and for different provisions of this Act.

(3) This Act does not extend to Northern Ireland.

(4) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

## SCHEDULES.

### FIRST SCHEDULE.

#### CONSTITUTION OF POISONS BOARD.

1. The Board shall consist of fourteen members:

Provided that the Secretary of State may from time to time if he thinks fit appoint additional members of the Board, not exceeding four in all.

2. The Board shall be composed of the following persons, namely:—

One person appointed by the Secretary of State for the Home Department.

One person appointed by the Secretary of State for Scotland.

Two persons appointed by the Minister for Health.

One person appointed by the Minister of Agriculture and Fisheries.

The person who is for the time being the Government Chemist or, in his absence, a member of his staff appointed by him.

Five persons appointed by the Pharmaceutical Society of Great Britain, of whom one shall be a person engaged in the manufacture for sale by way of wholesale dealing of pharmaceutical preparations.

One person appointed by the Royal College of Physicians of London.

One person appointed by the Royal College of Physicians of Edinburgh.

One person appointed by the General Medical Council.

The additional members, if any, appointed by the Secretary of State.

3. Such member of the Board as the Secretary of State may appoint shall be the Chairman.

4. The appointed members of the Board shall hold office for a term of three years.

5. If the place of an appointed member of the Board becomes vacant before the expiration of his term of office, whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the body or person by whom the vacating member was appointed, and any person appointed to fill a casual vacancy shall hold office so long only as the member to whose place he was appointed would have held office.

6. Any appointed member ceasing to be a member of the Board shall be eligible for re-appointment.

7. The powers of the Board may be exercised notwithstanding any vacancy in their number.

## SECOND SCHEDULE.

### ENACTMENTS REPEALED.

Session and Chapter.	Short title.	Extent of Repeal.
14 & 15 Vict. c. 13	The Arsenic Act, 1851...	The whole Act.
15 & 16 Vict. c. 56.	The Pharmacy Act, 1852	In section two, the words "by a "Special General Meeting of "the Members of the said "Pharmaceutical Society, and". In section five, the words "shall "from time to time make out "and maintain a complete "register of all persons being "members of the said Society, "and also of all persons being "Associates and Apprentices "or Students respectively, "according to the terms of the "Charter of Incorporation, "and"; the words "a proper "index of the register, and"; and the word "other". Section seven.
31 & 32 Vict. c. 121.	The Pharmacy Act, 1868	In section ten, the words "and "every such person duly "registered as a pharmaceuti- "cal chemist shall be eligible "to be elected as a member of "the said Society". Sections twelve, thirteen and fourteen.
32 & 33 Vict. c. 117.	The Pharmacy Act, 1869	In section fifteen, the words "or "certificate". Section sixteen. Sections one, two, fifteen, sixteen, seventeen and twenty-six, and Schedule F. The whole Act.

Session and Chapter.	Short title.	Extent of Repeal.
61 & 62 Vict. c. 25.	The Pharmacy Acts (Amendment) Act, 1898.	In section two, from the beginning of the section to the words "registered as a 'Student-Associate' of the Society". Section three.
8 Edw. 7. c. 55...	The Poisons and Pharmacy Act, 1908.	Sections one, two, three, five and seven, and the Schedule.
13 & 14 Geo. 5. c. 5.	The Dangerous Drugs and Poisons (Amendment) Act, 1923.	Sections three and four, and in section five the words "of the Schedule to the Poisons and Pharmacy Act, 1908, and".







REPORT  
OF THE  
**Departmental Committee on the  
Poisons and Pharmacy Acts.**

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to Parliament by Command of His Majesty  
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